

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.11.2019

CORAM

THE HON'BLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.NO.32995 OF 2018

AND

W.M.P.NO.38251 OF 2018

Tvl.Terrastone Tiles,
Represented by its Partner,
Tmt.M.Karpagam, No.121, 122,
Cowly Brown Road, R.S.Puram,
Coimbatore.

...Petitioner

Vs.

1. The Assistant Commissioner (ST),
Mettupalayam Road Circle,
Coimbatore.

2. The Appellate Deputy Commissioner (ST) (Main),
Dr.Balasundaram Road,
Coimbatore - 18.

...Respondents

Prayer :

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records on the files of the second respondent in VAT AP.No.84/2018 (2015-16) dated 12.10.2018 and quash the same in so far as the issue relates to stock difference is concerned only.

For Petitioner : Mr.R.Senniappan

For Respondent : Mr.Master Ganesh
Government Advocate

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O R D E R

This writ petition is filed challenging the order of the second respondent dated 12.10.2018 for the Assessment Year 2015-16.

2. Heard Mr.R.Senniappan, learned counsel appearing for the petitioner and Mr.Master Ganesh, learned Government Advocate appearing for the respondents.

3. The challenge made in this writ petition is against the common order of the Appellate Authority viz., the second respondent, passed in the Assessment Years 2010-11 to 2015-16. The Appellate Authority, by the common order, partly allowed, partly dismissed, partly modified and partly remanded the matter.

4. It is submitted by the learned counsel appearing for the petitioner that insofar as the order passed by the Appellate Authority in respect of the Assessment Years 2010-11 to 2014-15, the petitioner has already approached the Appellate Tribunal and filed a second appeal and those appeals are still pending. However, the petitioner has chosen to file the present writ petition against the very same common order only in respect of the Assessment Year 2015-16.

5. In my considered view, when a common order is passed by the first Appellate Authority in respect of several Assessment Years and the petitioner has chosen to file further appeal before the Taxation Appellate Tribunal in respect of five Assessment Years, it is better, the petitioner file appeal before the Tribunal in respect of the remaining Assessment Year viz., the Assessment Year 2015-16 also by raising all the contentions so that the Taxation Appellate Tribunal can pass a comprehensive order in respect of the issues raised in the above appeals.

6. The learned counsel appearing for the petitioner fairly submitted that the petitioner may be permitted to file such appeal by raising all the contentions.

7. The learned Government Advocate is also not opposing the above request made by the petitioner for filing such appeal before the Appellate Tribunal.

8. In view of the above stated facts and circumstances and without expressing any view on the merits of the contentions raised by both parties, this writ petition is disposed of, by granting liberty to the petitioner to file appeal before the Appellate Tribunal in respect of the Assessment Year 2015-16 also by following all the procedures for filing such appeal. The petitioner shall file such appeal within a period of two weeks from the date of receipt of a copy of this order. If any such appeal is filed within the time stipulated, the same shall be considered by the Appellate Tribunal on its own merits and in accordance with law along with the appeal filed by the petitioner in respect of the Assessment Year 2010-11 to 2014-15, without reference to the limitation issue.

9. Needless to say that it is for the petitioner to raise all the contentions before the Taxation Appellate Tribunal and

such contention shall be considered on its own merits and appropriate orders shall be passed by the Tribunal accordingly. The Registry is directed to return the original impugned order to the petitioner. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

sni

To

1. The Assistant Commissioner (ST),
Mettupalayam Road Circle,
Coimbatore.
2. The Appellate Deputy Commissioner (ST) (Main),
Dr.Balasundaram Road,
Coimbatore - 18.

Copy To

The Section Officer,
High Court, Madras-104.

+1cc to Mr.R.Senniappan, Advocate, S.R.No.94039

+1cc to the Special Government Pleader (T), S.R.No.94574

W.P.No.32995 of 2018

MR(CO)
CS/17/12/2019

सत्यमेव जयते

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