IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.10.2020

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 14846 of 2016
and
W.M.P. No. 12979 of 2016

Tvl. Timindia Exim
Rep. by its Partner
No.675, 200 Feet Inner Ring Road
Madhavaram, Chennai - 600 110. ... Petitioner

-vs-

The Commercial Tax Officer
Madhavaram Assessment Circle
Chennai - 66. ... Respondent

Prayer:- Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, call for the records of the impugned order of assessment in TIN.33341088875/2014-15 dated 26.022016 by the Respondent herein from the files of the respondent herein, quash the same.

For Petitioner : Mr. Adithya Reddy

For Respondent : Mr. A.N.R. Jayaprathap
Government Advocate

O R D E R
(through video conference)

Heard Mr. Adithya Reddy, Learned Counsel for the Petitioner and Mr. A.N.R.Jayaprathap, Learned Government Advocate (Taxes) for the Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Respondent by Order No. TIN:33341088875/2014-15, dated 26.02.2016 had assessed the liability of the Petitioner for the year 2014-15 under Section 22(4) of the Tamil Nadu Value Added Tax Act, 2006 (hereinafter referred to as the 'Act' for short). The Petitioner was entitled to prefer appeal against that order under Section 51 of the Act within a period of 30 days from the date of its receipt before the Appellate Authority, viz., Appellate Deputy Commissioner, (CT) (North), Chennai – 600 006,

who has been empowered to condone delay in filing such appeal for an extended period of 30 days, if sufficient cause for not preferring appeal within that period is made out. However, the Petitioner did not prefer any such appeal before that Appellate Authority, but has instead filed this Writ Petition on 18.04.2016 challenging the order passed by the Respondent.

3. There is no acceptable explanation from the Petitioner for not having resorted to that alternative remedy provided under the statute. In this context, it has to be recapitulated here that the Hon'ble Supreme Court of India in Assistant Collector of Central Excise -vs- Dunlop India Limited [(1985) 1 SCC 260] has succinctly explained the legal position relating to the exercise of discretionary powers under writ jurisdiction as follows:-

> "3. Article 226 is not meant to short-circuit or circumvent statutory procedures. It is only where statutory remedies are entirely ill-suited to meet the demands of extraordinary situations as for instance where the very vires of the statute is in question or where private or public wrongs are so inextricably mixed up and the prevention of public injury and the vindication of public justice require it that recourse may be had to Article226 of the Constitution. But then the Court must have good and sufficient reason to bypass the alternative remedy provided by statute. Surely matters involving the revenue where statutory remedies are available are not such matters. We can also take judicial notice of the fact that the vast majority of the petitions under Article 226 of the Constitution are filed solely for the purpose of obtaining interim orders and thereafter prolong the proceedings by one device or the other. The practice certainly needs to be strongly discouraged."

Having regard to that legal position, this Court does not express any view on the correctness or otherwise on the merits of the controversy involved in the matter.

4. In the result, the Writ Petition, which cannot be entertained, is dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

The Commercial Tax Officer,
Madhavaram Assessment Circle,
Chennai - 66.

+1cc to Mr.Adithya Reddy, Advocate Sr.34325
+1cc to the Special Government Pleader Sr.34728

W.P. No. 14846 of 2016

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srg 3/11/2020