IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2020

C O R A M

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.25649 of 2012
&
WMP.No.11570 of 2019

Tvl. Ammanarul Spinners (P) Ltd.,
Represented by its Director,
Mr.Pawankumar Saraf,
Nagiampatty, Attur Taluk,
Salem District.

... Petitioner

Vs.

1. The Commercial Tax Officer,
   Attur (Rural) Assessment Circle,
   Attur, Salem District.

2. The Appellate Deputy Commissioner (CT),
   C.T.Building, Salem.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records on the files of the second respondent in CST.A.P.24/2012 dated 27.07.2012 and connected proceedings of the 1st respondent in CST.No.428286/06/07 dated 29.02.2012 and quash the same.

For Petitioner :Mr.R.Senniappan

For Respondent :Mr. A.N.R.Jayaprathap,
Standing Counsel



O R D E R

The petitioner has challenged the impugned orders dated 29.02.2012 and 27.07.2012 passed by the respective respondents 1 and 2. The 2nd respondent by order dated 27.07.2012 in CST.A.P.No.24/2012 has dismissed the appeal saying that the appeal should have been filed before the Sales Tax Appellate Tribunal, Coimbatore in term of Section 18(A) of the CST Act, 1956.

2.The petitioner is aggrieved by the impugned order dated 29.02.2012 passed by the first respondent and filed an appeal before the second respondent. In the said appeal, the second respondent passed an order dated 27.07.2012 for the assessment year 2006-2007 under the Central Sales Tax Act, 1956 dismissing the appeal. While dismissing the appeal, the second respondent considered the case on merits and also conceded that the respondents had no jurisdiction to pass any order and the appeal should have been transferred to decide the issue by the Highest Appellate Authority, in view of the amendments inserted by Finance Act 2010 wherein section 18-A- Chapter V of the CST Act 1956 introduced.

3. The learned counsel for the respondents submits that the petitioner had wrongly filed an appeal before the second Appellate Deputy Commissioner though an appeal should have been filed only before the Sales Tax Appellate Tribunal , Coimbatore, under section 18-A CST Act, 1956.

4. I find the submission reasonable. Accordingly, the impugned order passed by the second respondent is set aside, the second respondent is directed to transmit the appeal memorandum dated 26.03.2012 filed by the petitioner before the Sales Tax Appellate Tribunal, Coimbatore. Since, the dispute pertains to the year 2006-07, the second respondent is directed to transmit the appeal papers before the Sales Tax Appellate Tribunal, Coimbatore within a period of 3 months from the date of receipt of a copy of this order. The intimation shall also be sent to the petitioner about the same. The petitioner shall follow up with the Tribunal as to the status of appeal, before the Sales Tax Appellate Tribunal, Coimbatore. In case the petitioner does not hear from the respondents within aforesaid period, the petitioner may re-construct the appeal papers within a period of 30 days and file it before the Sales Tax Appellate Tribunal to number the appeal and hear the same.

5. With the above direction, the writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Commercial Tax Officer,
   Attur (Rural) Assessment Circle,
   Attur, Salem District.

2. The Appellate Deputy Commissioner (CT),
   C.T.Building, Salem.

+1cc to Mr.R.Senniappan, Advocate, Sr.No.9355
+1cc to Government Pleader, Sr.No.9591

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RSV(CO)
GS(01/06/2020)