IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2020

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

W.P. No. 2107 of 2016
and
W.M.P. No. 1835 of 2016

Tvl. Videocon Industries Limited,
Represented by its Senior Accounts Officer,
No. 42, Thirumalai Pilai Road,
T. Nagar, Chennai - 600 017. ... Petitioner

-vs-

The Deputy Commissioner (CT) - IV (FAC)
Large Tax Payers Unit,
No. 34, Dugar Towers, 5th Floor,
Marshalls Road, Egmore, Chennai - 600 008.
... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the Respondent in TIN 33251522660/2014-15 dated 19.11.2015 and to quash the same as illegal, unconstitutional, arbitrary and having been passed in contrary to the provisions of Tamil Nadu Value Added Tax Act, 2006 and to forthwith direct the Respondent to afford an opportunity to the Petitioner to produce all the relevant documents for perusal before passing any fresh orders in accordance with law.

For Petitioner :No Appearance

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

O R D E R
(through video conference)

Heard Mr. A.N.R.Jayaprathap, Learned Government Advocate appearing for the Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. There is no representation for the Petitioner when the matter is called at 1.29 p.m. and 3.10 p.m.

3. The Writ Petition challenges the Order in 33251522660/2014-2015 dated 19.11.2015 passed by the Respondent in respect of the liability of the Petitioner for the year 2014-2015 under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (hereinafter referred to as 'the TNVAT Act' for short). The Petitioner was entitled to prefer appeal against that order under Section 51 of the TNVAT Act, within a period of 30 days from the date of its receipt before the Appellate Authority, 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 the Appellate Authority, but has instead filed this Writ Petition on 19.01.2016 challenging the order passed by the Respondent.

4. There is no acceptable explanation from the Petitioner for not having resorted to that alternative remedy provided under the statute. It requires to be highlighted 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 the aforesaid legal position, this Court does not express any view on the correctness or otherwise on the merits of the controversy involved in this case.

5. In the result, the Writ Petition, which cannot be entertained, is dismissed with the aforesaid clarifications. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

The Deputy Commissioner (CT) - IV (FAC)
Large Tax Payers Unit,
No. 34, Dugar Towers, 5th Floor,
Marshalls Road, Egmore, Chennai - 600 008.

+1 cc to The Government Pleader, Sr.No. 39189

W.P. No. 2107 of 2016

SJ(CO)
RMP(16/12/2020)