IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2020

CORAM

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

W.P. No. 31740 of 2014
and
W.M.P. No. 1 of 2014

M/s.Tvl.Prem Steel Traders,
Represented by its Proprietor Mr. A.Prem Navas,
No. 18/D-1, Ulagalandar Street,
Kancheepuram - 631502. ...Petitioner

-vs-

1.The State of Tamil Nadu,
Represented by its Secretary to Government
Department of Commercial Taxes,
and Religious Endowments,
Fort St. George - 600 009.

2.The Assistant Commissioner (CT),
Kancheepuram Assessment Circle,
Kancheepuram- 631 502.

3.The Commercial Tax Officer,
Kancheepuram Assessment Circle,
Kancheepuram. ...Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the impugned proceedings of the Second Respondent in TIN:33151640473/2007-2008 and quash the impugned revised order dated 03.11.2014 as passed contrary to the provisions of the Tamil Nadu Value Added Tax Act, 2006 and also against the principles of natural justice and further to direct the Second Respondent to grant a reasonable opportunity of being heard to the Petitioner as contemplated under the TNVAT Act in accordance with law and on merits.

For Petitioner : Mr. T.C.Sajith Babu

For Respondents : Mrs. G.Dhana Madhri
Government Advocate (Taxes)

O R D E R
(through video conference)

Heard Mr. T.C. Sajith Babu, Learned Counsel for the Petitioner and Mrs. G.Dhana Madhiri, Learned Government Advocate (Taxes) for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Respondent by Order No. TIN:33151640473/2007-2008 dated 03.11.2014 had confirmed the order of assessment for determining the total taxable turnover for the year 2007-08 of the Petitioner under the provisions 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) South, 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 01.12.2014 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 III)

//True Copy//

Sub Assistant Registrar

Dm/Msm

To

1.The Secretary to Government
State of Tamil Nadu,
Department of Commercial Taxes,
and Religious Endowments,
Fort St. George - 600 009.

2.The Assistant Commissioner (CT),
Kancheepuram Assessment Circle,
Kancheepuram- 631 502.

3.The Commercial Tax Officer,
Kancheepuram Assessment Circle,
Kancheepuram.

+1cc to Mr.T.C.Sajith, Advocate, S.R.No.32976

W.P. No. 31740 of 2014

AD(CO)
KKV/02/12/2020