IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.2.2020

CORAM

THE HONOURABLE DR.JUSTICE VINEET KOTHARI
AND
THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.A.Nos.3168 to 3171 of 2019
and
C.M.P.Nos.20012, 20021, 20023 & 20035 of 2019

Andavar Construction,
rep. by its Proprietor
Mr.B.Yasu,
No.268, 200 Feet Road,
Mahatma Gandhi Nagar,
Kolathur, Chennai 600 099. Appellant/Petitioner in all WAs

Versus

1. The State of Tamil Nadu,
rep. by its Secretary to Government,
Commercial Taxes and Registration Department,
Fort St. George, Chennai 600 009.

2. The Commissioner of Commercial Taxes,
Commercial Taxes Department,
Ezhilagam, Chepauk,
Chennai 600 005.

3. The Superintendent/
Deputy Commercial Tax Officer,
Sowcarpet Assessment Circle,
Chennai 600 001.

4. The State Tax Officer/
Commercial Tax Officer,
Surapattu Assessment Circle,
No.27, Makkaram Garden,
Kolathur, Chennai 600 099.

Respondents/Respondents in all WAs

Prayer: Writ Appeals filed under Clause 15 of the Letters Patent against the order dated 2.7.2019 in W.P.Nos.5042, 3219, 5055 and 5066 of 2019 passed by this court, and writ petition

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3219,5055,5066 and 5042/2019 are filed under Article 226 of the constitution of India, praying to issue a writ of certiorarified mandamus to call for the records relating to the order of assessment in his TIN / 33981369144/2012-2013/2013-2014/2014-2015/2015-16 dated 28.9.2018 and the notice in TIN / 33981369144 / 2012-2013 / CTO dated 13.12.2018 respectively and quash the same and to direct the 4th respondent to afford an opportunity of personal hearing and to produce the copies of Form -T certification of deduction of tax at source and re do the assessment for the Assessment year 2012-2013, 2013-2014, 2014-2015, 2015-16.

For Appellant : Mr.K.M.Malarmannan

For Respondents : Ms.G.Dhana Madhri,
Govt. Advocate (Tax)

COMMON JUDGMENT

(Judgment of the court was made by Dr.VINEET KOTHARI, J.)

The present intra-court Appeals have been filed by the Assessee aggrieved by the order passed by the learned Single Judge dated 2.7.2019 whereby the learned Single Judge dismissed the Writ Petitions filed by the Assessee, which were directed against the Assessment Order dated 13.12.2018 and relegating the Assessee to file Statutory Appeal before the first Appellate Authority under the provisions of the TNVAT Act.

2. The learned counsel for the Appellant, Mr.K.M.Malarvannan submits that the Assessee had been in possession of TDS Certificates issued by the Chennai Corporation, however, without giving credit to such TDS Certificates, in the hands of the Assessee, the learned Assessing Authority has proceeded to pass the Assessment Order which was challenged in the Writ Petition and the learned Assessing Authority ought to have given opportunity to produce such certificates.

3. The learned Government Advocate for the Respondent/Department, Ms.G.Dhana Madhri, however, supported the impugned order passed by the learned Single Judge.

4. Having heard the learned counsel for the parties, we are satisfied that there is no error in the order passed by the learned Single Judge and the present Writ Appeals are without any merit. The Assessee has a better opportunity to produce the requisite evidence in the form of TDS Certificate claiming credit of the same in the Assessment Year in question before the Appellate Authority, who may either himself take into consideration such tax paid or remand the matter back to the Assessing Authority to consider the same in accordance with law. This exercise cannot be undertaken in the Writ jurisdiction.

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5. There is not merit in the Writ Appeals and the same are liable to be dismissed. Accordingly, they are dismissed. No costs. Consequently, the connected Miscellaneous Petitions are also dismissed.

6. If the regular Statutory Appeal is filed within four weeks from today, the same may be entertained and considered by the Appellate Authority without raising any objection with regard to limitation, however, subject to fulfilment of other usual conditions for filing the Appeal.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

ssk.

To:

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

2. The Commissioner of Commercial Taxes,
Commercial Taxes Department,
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4. The State Tax Officer/
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Surapattu Assessment Circle,
No.27, Makkaram Garden,
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+1cc to Spl Government Pleader(Taxes) SR.14352

W.A.Nos.3168 to 3171 of 2019

NRJK(CO)
CB(19/03/2020)
CB(26/05/2020)

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