IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 08.12.2020
CORAM
THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU
W.P. No. 30230 of 2018
and
W.M.P. Nos. 35281 of 2018

Tvl. Space Textiles Pvt. Ltd.,
Represented by its Director,
No. 783-D, White Field, New Dhamu Nagar,
Paliakulam Road,
Pappanaickenpalayam,
Coimbatore - 641 307.
... Petitioner

-vs-

The Deputy Commissioner (ST) (Fac),
Divisional Large Tax Payers Unit,
Coimbatore - 641 018.
... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records of the Respondent in order dated 01.10.2018 in TIN: 33071782137/2014-15 and quash the same.

For Petitioner : Mr. Adithya Reddy

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

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) appearing for the Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Respondent passed the Order No. TIN: 33071782137/2014-15 dated 01.10.2018 for the year 2014-2015 under the provisions of Tamil Nadu Value Added Tax Act, 2006 (hereinafter referred to as the 'TNVAT Act' for short) in respect of the Petitioner. The Petitioner was entitled to prefer appeal against those orders under Section 51 of 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 30.10.2018 challenging the order passed by the Respondent.

3. It must, at once, be emphasized 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, in the following words:-

> "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 Article 226 of the Constitution. But then the Court must have good and sufficient reason to by-pass 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."

There is no acceptable explanation from the Petitioner for not having resorted to that alternative remedy provided under the statute. It is also not the case of the Petitioner that the contentions raised in this Writ Petition could not be agitated in the appeal before the Appellate Authority.

4. Viewed from that perspective, this Court is not inclined to delve into the merits of the controversy involved in this case, touching upon disputed questions of fact for effectual and complete adjudication of the matter.

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 VIII)

//True Copy//

Sub Assistant Registrar

To

The Deputy Commissioner (ST) (Fac),
Divisional Large Tax Payers Unit,
Coimbatore - 641 018.

+1cc to Mr.Adithya Reddy, Advocate, S.R.No.39498

+1cc to the Spl Government Pleader, S.R.No.39949

W.P. No. 30230 of 2018

SR II(CO)
GSP(18/12/2020)