IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.03.2021

CORAM :

The Honourable Mr.Justice T.S.SIVAGNANAM
and
The Honourable Ms.Justice R.N.MANJULA

W.A.No.832 of 2021
and
C.M.P.No.4742 of 2021

M/s.Best Leather Company,
Rep. by its Partner K.Elavarasan,
No.16/7, 2nd Floor, Patnool Sardar Jung St,
Periamet, Chennai - 600 003. ...Appellant/Petitioner

Vs

The Income Tax Officer,
Non-Corporate Ward-4(5),
Chennai - 600 006. ...Respondent/Respondent

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order passed in W.P.No.1213 of 2018 dated 27.09.2019.

PRAYER IN WP 1213 of 2018: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records of the respondent in PAN NO.AAJFB7539G relating to the assessment year 2015-2016 dated 24/11/2007 and quash the same along with the consequential notice under section 274 read with section 271 (1)(c) of the Income Tax Act 1961.

For Appellant : Mr.V.Sundareswaran

For Respondent : Mrs.Hema Muralikrishnan, SSC

JUDGMENT
(Delivered by T.S.Sivagnanam,J)

This writ appeal by the writ petitioner is directed against the order dated 27.09.2019 made in W.P.No.1213 of 2018, which was filed by the appellant, challenging the assessment order passed by the respondent under Section 143(3) of the Income Tax Act, 1961 ('The Act' for brevity).

2. At the time when the writ petition was entertained, in

view of the submission made by the appellant that tax could not have been levied based on any concession extended by the assessee, an interim order was granted. Subsequently, a counter affidavit was filed by the Assessing Officer setting out as to how the assessment was completed.

3. The learned Single Bench, on going through the facts placed before it by the appellant and the Department, held that there are several disputed factual aspects which cannot be gone into in a writ petition and therefore relegated the appellant to exhaust the appellate remedy available under the Act.

4. After elaborately hearing Mr.V.Sundareswaran, learned counsel for the appellant and Mrs.Hema Muralikrishnan, learned Senior Standing Counsel appearing for the respondent, we are of the view that the learned Single Bench was right in relegating the appellant to avail the statutory appellate remedy.

5. We are not expressing any opinion on the merits of the matter as the respondent has filed a counter affidavit setting out as to how they have completed the assessment. Thus, it is for the appellant to exhaust the appeal remedy and raise all contentions both on facts as well as on law and pursue the same before the said authority.

6. For the above reason, we find no good grounds to entertain the appeal. Accordingly, the writ appeal is dismissed and the appellant is granted 30 days time from the date of receipt of a copy of this judgment to file an appeal before the first appellate authority, since the appellant had the benefit of an interim order during the pendency of the writ petition. The respondent is advised not to initiate any precipitative action within the time granted to the appellant for preferring a statutory appeal. However, if the appellant does not file an appeal before the said period, it is well open to the respondent to initiate recovery proceedings. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

/TRUE COPY/

Sub-Assistant Registrar

hvk
To
The Income Tax Officer,
Non-Corporate Ward-4(5),
Chennai - 600 006.

+1cc to Mr.V.SUNDARESWARAN, ADVOCATE, SR.NO. 17125
+1cc to M/S.HEMA MURALIKRISHNAN,Advocate, SR.NO.17278

W.A.No.832 of 2021
and
C.M.P.No.4742 of 2021

AAB(CO)
KKN 22.04.2021