IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.1638 to 1641 of 2015
and M.P.Nos.1,1,1 & 1 of 2015

Tvl.Noyyal Common Effluent Treatment Company Ltd.,
Rep. By its Managing Director,
S.Sivasamy,
Shop No.2, P.R.Complex,
No.47, Binny Compound Main Road,
Tirupur 641 601. .. Petitioner in all W.Ps.

Vs.

1.The Assistant Commissioner (CT),
Central-I Assessment Circle,
Tirupur.

2.The Assistant Commissioner (CT),
Guindy Assessment Circle,
No.46, Greenways Road,
Chennai 600 028.

3.The Assistant Commissioner (CT),
Villivakkam Assessment Circle,
No.5, High Court Colony,
Villivakkam, Chennai 600 049.

4.The Assistant Commissioner (CT),
Amaindakarai Assessment Circle,
3rd Floor, Kuralagam Annexe,
Chennai 600 108.

5.The Assistant Commissioner (CT),
Thiruvanmiyur Assessment Circle,
92, A.V.Church Road, Besant Nagar,
Chennai 600 090.

6.The Commissioner of Commercial Taxes,
2nd Floor, Ezhilagam,
Chepauk, Chennai 600 005.

7.Tvl.Windsor Sathyam Engineering Company,
Plot No.1852, 6^{th} Avenue Road,
Anna Nagar West,
Chennai 600 040.

8.M/s.Grandfos Pumps India Ltd.,
No.118, Old Mahabalipuram Road,
Thuraipakkam, Chennai 600 096.

9.M/s.Doshion Ltd.,
V-3, IV Main Road,
Anna Nagar, Chennai 600 040.

10.Tvl.IVRCL Infrastructure & Projects Ltd.,
30-A, South Phase, 6^{th} Cross Road,
Thiru-vi-ka Industrial Estate,
Guindy, Chennai 600 032. .. Respondents in all W.Ps.

Common Prayer: Writ Petitions filed under Article 226 of the Consitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the 1^{st} respondent in TIN.No.33092403702/2006-07, TIN.No.33092403702/2007-08, TIN.No.33092403702/2008-09 and TIN.No.33092403702/2009-10, all dated 09.12.2014 and quash the same as being without jurisdiction and authority of law and double assessment on single transaction and further direct the 6^{th} respondent to nominate an officer for arriving at a comprehensive decision as directed by this Hon'ble Court in a batch of writ petitions in W.P.No.26148/2014 and other cases dated 09.12.2014 (Githa Power and Infrastructure Pvt., Ltd., Chennai 18 and others Vs. Assistant Commissioner (CT), Mandaveli Assessment Circle and others) in so far as the assessment under Section 13 of the Tamil Nadu Value Added Tax Act, 2006 is concerned.

(In all W.Ps.)

For Petitioner : Mr.R.Senniappan

For Respondents : Mr.V.Nanmaran, (For R1 to R6)
Government Advocate

Not ready in notice (For R7 & R9)

No appearance (For R8)

Mr.V.Sundareswaran (For R10)

C O M M O N O R D E R

The revision orders passed by the Assistant Commissioner (CT), Central-I Assessment Circle, Tirupur, in proceedings dated 09.12.2014 are under challenge in the present Writ Petitions.

2.The learned counsel appearing for the petitioner made a submission that this Court passed an order on 09.12.2014 in W.P.No.26148 of 2014 & etc., wherein directions were issued to the petitioners therein to submit their reply to the Pre-Revision notice raising all contentions within a period of 30 days from the date of receipt of a copy of that order and a further direction was issued that the Commissioner thereupon shall nominate an Officer to enquire into the matter in respect of all the notices (subject matter of all the Writ Petitions) to consider the reply given by the petitioners and afford an opportunity of personal hearing, in which, the petitioners shall be entitled to produce documents and records in support of their contentions and thereafter, the Officers so nominated by the Commissioner shall pass reasoned orders on merits and in accordance with law.

3.This Court is of the considered opinion that the relief sought for in those Writ Petitions are against the revision notices issued by the Commercial Tax Officer concerned. At the stage of notice, this Court passed an order, directing the Commissioner to nominate an Officer to enquire into the matter in respect of all the notices and pass an appropriate order. This Court issued the said direction after identifying certain aspects and illegalities. However, in the present Writ Petitions, the impugned orders itself reveal that pursuant to the orders passed by this Court in W.P.No.186 of 2011 dated 12.01.2011, revised separate notices were issued to the writ petitioner for four different Assessment Years and accordingly, opportunity was provided to the writ petitioner to defend their case in the manner prescribed and thereafter, the final orders of assessment were passed. Admittedly, the present Writ Petitions are filed challenging the final assessment orders. Therefore, the judgment relied upon by the petitioner, passed by this Court on 09.12.2014 is not applicable, as the present Writ Petitions are filed challenging the final revision orders passed.

4.The final assessment orders passed are appealable orders. The Court cannot encourage multiplicity of litigation instituted by the dealers, in order to avoid or postpone the issues. The issues are to be addressed in an appropriate and systematic manner and in accordance with the provisions of law. When the law enumerates the procedures to be adopted, the said procedures are to be scrupulously followed for the purpose of reaching finality in respect of the disputed issues. Contrarily, at every stage if the litigations are entertained, then the very continuance of the proceedings are derailed and the competent authorities would not be in a position to finalise the disputes raised with reference to the grounds. In normal circumstances, the competent authorities must be allowed to proceed with the issues by following the provisions contemplated. Only on exceptional circumstances where actions are initiated by an incompetent authority having no jurisdiction or an allegation of malafides are raised and substantiated, then alone the interference by the High Court is warranted. Therefore, routine intervention in all circumstances when the departmental proceedings are in progress are not desirable.

5.Admittedly, the present Writ Petitions are filed challenging the final assessment orders and therefore, the petitioner is bound to exhaust the statutory remedies provided under the provisions of the Act. The importance of the appellate remedy at no circumstances be undermined, as the appellate authorities are the final fact finding authorities.

6.Preferring an appeal is the rule. Entertaining a Writ Petition before exhausting the appellate remedy is an exception. Undoubtedly, writ proceedings may be entertained before exhausting the appellate remedy. However, it is to be ensured that there is an imminent threat or gross injustice warranting urgent relief to be granted. Mere violation of principles of natural justice is insufficient to entertain a writ proceedings under Article 226 of the Constitution of India, as every Writ Petition is filed based on one or the other ground stating that the principles of natural justice is violated or statutory requirements are not complied with or there is an illegality or otherwise. Thus, dispensing with an appellate remedy is to be granted cautiously in view of the fact that the very purpose and object of legislation providing an appellate remedy cannot be diluted nor the benefit be denied to the aggrieved person to exhaust the same. The statutory appellate authorities are the final fact finding authorities. Thus, the finding to be made by such appellate authorities with reference to the documents and evidences are of paramount importance for the purpose of exercise of judicial review by the High Court under Article 226 of the Constitution of India.

7.The power of judicial review of the High Court under Article 226 of the Constitution of India is to scrutinize the processes through which a decision is taken by the competent authority by following the procedures as contemplated, but not the decision itself. Therefore, the routine entertainment of a Writ Petition by dispensing with appellate remedy is not preferable and such an exercise would cause injury to the institutional hierarchy and the importance attached to such appellate institutions. The appellate institutions provided under the statute at no circumstances be undermined by the higher Courts. The appellate forums are the final fact finding authorities and more so, possessing expertise in a particular field. Thus, the finding of such appellate forums would be a valuable assistance for the purpose of exercise of judicial review by the High Court under Article 226 of the Constitution of India. The High Court cannot conduct a roving enquiry with reference to the facts and circumstances based on the documents and evidences. Based on the mere affidavits filed by the litigants, the disputed facts cannot be concluded. Thus, the importance of fact finding by the appellate forums is of more value for the purpose of providing complete justice to the parties approaching the Court of law.

8.The point of delay may be an acceptable ground for the purpose of entertaining a Writ Petition. The practise of filing the Writ Petition without exhausting the statutory remedies are in ascending mode and such Writ Petitions are filed with a view to avoid pre-deposits to be made in statutory appeals and on the ground that the appellate remedies are time consuming.

9.In view of the facts and circumstances, the petitioner is at liberty to prefer an appeal before the jurisdictional competent authority, in a prescribed format, complying with the provisions of the Acts and Rules, within a period of four weeks from the date of receipt of a copy of this order. In the event of receiving any appeal from the petitioner, the appellate authority shall consider the same by condoning the delay if any and adjudicate the appeal on merits and in accordance with law, by affording opportunity to the parties concerned. The said exercise is directed to be done as expeditiously as possible.

With these directions, all the Writ Petitions stand disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

gsa

To

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Central-I Assessment Circle,
Tirupur.

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2nd Floor, Ezhilagam,
Chepauk, Chennai 600 005.

Copy to

1.The Sub Assistant Registrar,
Writ Section,
High Court, Madras-104.

2.The Section Officer,
E.R.Section,
High Court, Madras-104.

+4ccs to Mr.Senniappan, Advocate (SR No.36125)
+1cc to Mr.V.Sundareswaran, Advocate (SR No.35794)
+1cc to Special Government Pleader (Taxes) (SR No.36092)

W.P.Nos.1638 to 1641 of 2015

SPD (CO)
PR (13/08/2021)