IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.5254 of 2008
& M.P.No.1 of 2008

M/s.D.L.Miller and Co.,
Rep. By its Authorised,
Representative B.Rajkumar,
No.147, Swami Naicken Street,
Chennai 600 002. ..Petitioner

Vs.

The Deputy Commercial Tax Officer,
Chintadripet Assessment Circle,
62, Cathedral Road,
Chennai 600 086. ..Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for proceedings of the respondent in TNGST/0582156/04-05 dated 20.08.2007 and quash the same as the same is against law.

For Petitioner : Mr.P.Rajavelu

For Respondent : Mr.V.Veluchamy
(Government Advocate)

ORDER

The Revision of assessment made in proceedings dated 20.08.2007 is under challenge in the present Writ Petition. The petitioner is dealer in PVC Laminated sheets and was assessee on the file of the respondent, both under the Tamil Nadu General Sales Tax Act, 1959 and Central Sales Tax Act, 1956. The Revision of assessment made in the impugned proceedings is under challenge, on the ground that the respondent who is quasi-judicial authority has not applied his mind independently and the conclusion arrived is contrary to the judgment of this Court. However, the order impugned is, Revision of assessment, based on certain facts and on verification of documents and evidences. Disputed facts cannot be adjudicated in a writ proceedings under Article 226 of the Constitution of India. To examine the correctness of Revision of assessment, the original files are to be verified and therefore, the petitioner has to prefer an appeal and the appellate authority is the final fact finding authority.

2.The findings of the appellate authorities would be of assistance to the High Court for exercise of power of judicial review under Article 226 of the Constitution of India. Thus, the importance of exhausting the statutory appellate remedy cannot, at any circumstances, be undermined. The factual disputes are to be adjudicated, by the parties, by submitting the documents and evidences. This being the principles to be followed, the petitioner has to prefer an appeal. Accordingly, the petitioner is at liberty to prefer an appeal before the respondent, within a period of four weeks from the date of receipt of a copy of this order and in the event of receiving any such appeal, the appellate authority is bound to consider the same on merits and in accordance with law, by affording opportunity to the writ petitioner and pass final orders as expeditiously as possible.

3.With these directions, the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

gsa

To

The Deputy Commercial Tax Officer,
Chintadripet Assessment Circle,
62, Cathedral Road,
Chennai 600 086.

+1cc to the Government Pleader, S.R.No.32692

W.P.No.5254 of 2008

PCH(CO)
RLP(06/08/2021)