IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2021

CORAM :

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

W.A.No.655 of 2021
against WP.NO.5630 of 2018
and
C.M.P.No.3241 of 2021

M/s.Paramount Vijetha Holdings,
Represented by its Partner-P.Manjunath,
Sy.No.45/2 & amp; 45/3, BegurHobli,
Arikere, Off Bannerghatta Road,
Bangalore - 560 076. ...Appellant

Vs

1. The Customs, Excise & Service
Tax Settlement Commission,
Additional Bench, II Floor,
Narmada Block, Customs House,
60, Rajaji Salai, Chennai - 600 001.

2. The Commissioner of Central Tax,
Bengaluru South GST Commissionerate,
1st Floor, C.R.Building,
Queen's Road, Bengaluru - 560 071. ...Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order of the learned Single Judge made in W.P.No.5630 of 2018 dated 23.11.2020.

Prayer in W.P.No.5630 of 2018:
Writ Petition filed under Article 226 of the Constitution of India Praying for issuance of a Writ of Certiorarified Mandamus call for the records on the files of the First Respondent herein in Final Order No.78/ 2017- ST dated 10.11.2017 and quash the same while directing the First Respondent to hear and dispose the settlement application in F. No.S.A.S. Tax. No.48/ 2017- SC filed by the Petitioner on its merits.

For Appellant: Mr.ARL.Sundaresan, Sr. Counsel
for Ms.AL.Ganthimathi

For Respondents: Mrs.R.Hemalatha, SSC

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

We have heard Mr.ARL.Sundaresan, learned Senior Counsel appearing for Ms.AL.Ganthimathi, learned counsel for the appellant and Mrs.R.Hemalatha, learned Senior Standing Counsel appearing for the respondents.

2. This writ appeal, filed by the writ petitioner, is directed against the order dated 23.11.2020 passed in W.P.No.5630 of 2018. The said writ petition was filed challenging the order passed by the Customs & Excise Settlement Commission, Additional Bench, Chennai dated 10.11.2017 and for a consequential direction to dispose of the application filed by the appellant before the Commission on merits. The learned Single Bench dismissed the writ petition, on the ground that it is not maintainable before this Court and that the appellant/assessee, being an assessee in the State of Karnataka, have to avail the remedy before the High Court of Karnataka.

3. It is the endeavour of the learned Senior Counsel to convince us that the office of the Settlement Commission is situated within the jurisdiction of this Court and therefore, this Court can exercise jurisdiction.

4. Identical issue was considered by the Division Bench of this Court, to which, one of us (TSSJ) was a party, in the case of M/s.Mulberry Silks Ltd. Vs. The Settlement Commission and others in W.A.No.717 of 2020 dated 14.09.2020 and it was held that though the seat of the Settlement Commission is at Chennai, the writ petition could not be maintained before this Court as the assessee was registered with the Department in another State.

5. Furthermore, we find from the ground raised in the writ petition, several factual aspects have been touched upon by the appellant with regard to the quantum of settlement amount, which was offered, etc., which obviously has to be considered only after hearing the jurisdictional Commissioner, namely Commissioner of Central Tax, Bangalore.

6. The learned Single Bench rightly took note of the decision in the case of C.Ramesh Vs. The Director General of Police in W.P.(MD) No.8790 of 2013 dated 06.06.2013. The learned Single Bench also has referred to the decision of the Division Bench of this Court with regard to the exercise of jurisdiction of this Court under Article 226 of the Constitution of India and as to how the territorial jurisdiction has to be ascertained.

The said decision also clearly decides the questions against the appellant.

7. Thus, for the above reasons, we are not inclined to interfere with the order passed in the writ petition. Accordingly, the Writ Appeal is dismissed. However, it is open to the appellant to avail other remedies which are available to them under the provisions of the Act before the appropriate forum/Court. Consequently, connected Miscellaneous Petition is also closed. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Customs, Excise & Service
Tax Settlement Commission,
Additional Bench, II Floor,
Narmada Block, Customs House,
60, Rajaji Salai, Chennai - 600 001.

2. The Commissioner of Central Tax,
Bengaluru South GST Commissionerate,
1st Floor, C.R.Building,
Queen's Road, Bengaluru - 560 071.

+1cc to M/s.A.L.Gandhimathi , Advocate SR.No. 13988
+1cc to M/s.R.Hemalatha, Advocate SR.No. 13914

W.A.No.655 of 2021
and
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A.SK(30.03.2021)