IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 24.03.2021
CORAM
THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.7546 of 2021
and WMP Nos.8076 and 8078 of 2021

Tvl. Sun Motors,
represented by its Proprietor
A.Vijay Anantha
No.350/A1, Katchery Road,
Kattumanarkoil,
Cuddalore Dt - 608 301.

… Petitioner

Vs

The State Tax Officer,
(formerly "The Commercial Tax Officer")
Chidambaram - II,
Cuddalore District.

… Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to Writ of Certiorarified Mandamus to call for the records on the file of the Respondent in his impugned proceedings made in TIN No.33466256678/2014-15 dated 14.11.2016 and its consequential proceedings dated 28.11.2020 under Section 84 of the Tamil Nadu Value Added Tax Act, 2006 and quash the same as unjust, illegal and against the principles of natural justice and consequently direct the respondent to pass appropriate order on merits on the petition dated 15.10.2020 filed by the petitioner.

For Petitioner : Mr.J.Prasanna Kumar
For Respondent : Mr.ANR.Jayaprathap
Government Advocate

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O R D E R

Mr.ANR.Jayaprathap, learned Government Advocate accepts notice for the respondent and is armed with instructions to proceed with the matter. Hence, by consent of both sides, this Writ Petition is disposed finally, even at the stage of admission.

2. The challenge is to an order of assessment dated 14.11.2016 for the period 2014-15, passed in terms of the provisions of the Tamil Nadu Value Added Tax Act, 2006 (in short

'Act'). By order dated 19.08.2019, a learned single Judge of this Court passed orders in W.P.No.16414 of 2018, to the effect that the Court was not inclined to interfere in the presence of an alternate remedy available. At paragraph 17, this Court has stated that it is left open to the petitioner to avail alternate remedy subject to limitation and pre-deposit conditions adumbrated under Section 51 of the Act.

3. The petitioner has chosen to file application under Section 84 of the Act and not statutory appeal and the Officer, by impugned order dated 28.11.2020, has chosen to dismis the rectification application as non-maintainable stating that the petitioner ought to have filed an appeal and not a rectification petition.

4. There is no justification whatsoever for the Officer to dismiss the application, as this Court, under Article 226 of the Constitution of India, granted liberty to the petitioner to avail statutory remedy that is available alternatively. These remedies may be either appeal or revisional remedies as are available under the Act. I have, in fact, taken this view in the case of State Bank of India Officers Association V. The Assistant Commissioner and two others (W.P.No.2451 of 2020 dated 18.08.2020). In the light of there being no contra view put forth by the revenue, I reiterate the view taken by me in the aforesaid decision.

5. The impugned order dated 28.11.2020 is set aside. The Assessing Authority shall consider the Section 84 application on merits and pass orders after hearing the petitioner, in accordance with law within a period of six weeks from today.

6. The prayer qua the original order of assessment dated 14.11.2016 cannot be granted, since the petitioner has, rightly approached the Assessing Officer for rectification of the same, which as per the present order will be considered by the Officer on merits.

7. This Writ Petition is disposed in the aforesaid terms. No costs. Connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

The State Tax Officer,
(formerly "The Commercial Tax Officer")
Chidambaram - II,
Cuddalore District.

+1cc to Mr.J.Prasanna Kumar, Advocate, S.R.No.19448.
+1cc to the Government Pleader(Taxes), S.R.No.19596.

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SKY(CO)
CSR 09.04.2021