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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.07.2021

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THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.NOS.37201 TO 37203 OF 2015

AND

M.P.NOS.1, 1 & 1 OF 2015

M/s.Rail One Projects Pvt.Ltd.,
Rep.by its Authorised Signatory,
Mr.I.Mallikarjuna Rao,
No.6/2 (Old No.15/C),
Jaganatha Nagar Main Road,
Arumbakkam, Chennai - 600 106.

... Petitioner in all WPs

.Vs.

The Assistant Commissioner (CT),
Vadapalani Assessment Circle,
No.1, Greams Road,
Chennai - 600 006.

... Respondent in all WPs

COMMON PRAYER:-

Writ Petition filed Under Article 226 of the Constitution of India to issue of Writ of Certiorarified Mandamus is filed to call for the records of the respondent in TIN Nos: 33781464702/2010-11, 33781464702/2011-12 & 33781464702/2012-13 respectively and quash the impugned orders dated 31.07.2015 & 08.07.2015 and further direct the respondent to examine the records produced along with objections and rectification petition in relation to the claim of "labour charges and other like charges" not involving transfer of property in "goods" and thereafter pass order in accordance with law after granting an personal hearing to the petitioner herein.

For Petitioner : Mr.V.Sundareswaran

For Respondent : Mr.V.Veluchamy
Government Advocate

..in all WPs



COMMON ORDER

These writ petitions are filed challenging the orders passed by the respondent in proceedings dated 31.07.2015 & 08.07.2015, for the Assessment Years 2010 - 11, 2011 - 12 & 2012 - 13 respectively, passed under Section 84, was rejected.

2. This Court directed the Authorities to dispose of the petitions filed under Section 84 and pursuant to the order of this Court dated 27.04.2015 in W.P.No.11293 of 2015, the respondent issued the revised notice to the petitioner. The petitioner has not even filed their reply. Thus, the respondents considered the case on merits and passed orders in proceedings dated 31.03.2015.

3. The impugned order itself reveals that the order passed by the respondent is an appealable order and the appeal lies before the Appellate Deputy Commissioner (CT), Chennai-Central, within a period of 30 days from the date of receipt of a copy of the order. Instead of preferring an appeal before the Appellate Authority, the petitioner has chosen to file these writ petitions. The order impugned is a final order passed in accordance with law. Therefore, the petitioner has to exhaust the appellate remedy as provided under the provisions of the Act.

4. No writ needs to be entertained, when a statutory appellate remedy is provided under the Act. The appellate authority is the final fact finding authority, who is competent to consider both the factual and legal grounds as they are functioning as quasi judiciary authority. The findings of the Appellate Authority would be of a greater assistance to the High Court for the purpose of exercising the power of judicial review under Article 226 of the Constitution of India. Thus, the importance of appellate remedy is significance and the High Court cannot adjudicate the disputed facts on merits with reference to the documents and evidences.

5. 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.

6. 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.

7. 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.

8. In view of the facts and circumstances, the petitioner is at liberty to file an appeal before the Jurisdictional Appellate Authority in a prescribed format and by following the provisions of the Act and Rules, within a period of four weeks from the date of receipt of a copy of this order and the Appellate Authority in the event of receiving any such appeal shall condone the delay if any and entertain the appeal and dispose of the same on merits and in accordance with law by affording opportunity to the writ petitioner.



9. Accordingly, these writ petitions stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

Pns

To

The Assistant Commissioner (CT),
Vadapalani Assessment Circle,
No.1, Greams Road,
Chennai - 600 006.

+1cc to the Special Government Pleader, S.R.No.32674

W.P.NOS.37201 TO 37203 OF 2015 AND
M.P.NOS.1, 1 & 1 OF 2015

CP(CO)
PBS/17/08/2021