IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.08.2021

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.10852, 10857, 10861 & 10864 of 2021
and
W.M.P.Nos.11488, 11492, 11495, 11499 of 2021

M/s.Siddharth Agencies
(Represented by its
Managing Partner, Mr.T.D.Muthukumar)
No.59, 28th Cross Street,
Besant Nagar,
Chennai – 600 090. ...Petitioner in all W.Ps

Vs

The State Tax Officer,
Adyar Assessment Circle,
No.244, 2nd Floor,
Anna Salai,
Nandanam,
Chennai – 600 035. ... Respondent in all W.Ps

PRAYER in W.P.No.10852 of 2021 : Writ Petition filed Under Article 226 of the Constitution of India to issue of Writ of Certiorari, calling for the records on the files of the respondent herein in CST/595832/2013-14 dated 30.03.2021 and quash the same.

PRAYER in W.P.No.10857 of 2021 : Writ Petition filed Under Article 226 of the Constitution of India to issue of Writ of Certiorari, calling for the records on the files of the respondent herein in CST/595832/2015-16 dated 30.03.2021 and quash the same.

PRAYER in W.P.No.10861 of 2021 : Writ Petition filed Under Article 226 of the Constitution of India to issue of Writ of Certiorari, calling for the records on the files of the respondent herein in CST/595832/2016-17 dated 30.03.2021 and quash the same.

PRAYER in W.P.No.10864 of 2021 : Writ Petition filed Under Article 226 of the Constitution of India to issue of Writ of Certiorari, calling for the records on the files of the respondent herein in CST/595832/2017-18 dated 30.03.2021 and quash the same.

For Petitioner [in all W.Ps] : Mr.N.Inbarajan
Senior counsel

For Respondents [in all W.Ps] : Mr.V.Veluchamy
Government Advocate

COMMON O R D E R

All these writ petitions are filed, challenging the Order-in-Original passed by the Assessing authority.

2. The learned Senior counsel appearing on behalf of the petitioner contended that the impugned orders are passed without jurisdiction as the provisions of the Central Sales Tax Act, 1956 [hereinafter referred to as 'CST Act'] has been erroneously interpreted by the respondent, while passing the orders impugned.

3. The learned Senior counsel drawn the attention of this Court with reference to Section 6(2) of the CST Act and contended that exemptions are granted and such exemptions are not properly interpreted in the case of the petitioner. The learned counsel solicited the attention of this Court with reference to the other provisions of the CST Act and contended that the writ petitions on hand are filed on the ground, raising the jurisdictional aspect and therefore, it is to be considered.

4. Perusal of the orders impugned would reveal that an internal audit was conducted during the year 2019-20 and certain defects were identified and on such defects, notices were issued and the petitioner submitted their

reply. Accordingly, the revision of assessment orders are passed by the original authority. With reference to the defects identified, the same requires adjudication, which is to be done by the final fact finding authority and therefore, this Court thought fit that in such circumstances, the aggrieved person must prefer an appeal and such a valuable right conferred to an aggrieved person under the Statute need not be denied in a casual manner by the High Courts also.

5. The importance of an Appellate remedy for the redressal of grievances at no circumstances needs to be undermined by the Courts. The institutional respects are of paramount importance and the institutions created under the Statute must be allowed to exercise its duty in the manner prescribed, more specifically, for the purpose of adjudication of disputed facts with reference to the original documents and evidences made available. This being the legislative intention for the purpose of providing appeals in various Statutes. Dispensing with an Appellate remedy is only an exception and the rule is to prefer an appeal.

6. The Appellate authorities are the quasi judicial authorities and they are empowered to adjudicate both the factual aspects as well as the legal grounds raised. They are trained for such adjudication and the expertise in the field of taxation especially with the Appellate authorities will have certain relevance in the matters, more specifically, where factual disputes are involved. It is needless to state that High Court is not an expert body on taxation. However, the officials of the Tax Department are certainly aware of certain intricacies of the accountancy and the manner, in which, the traders are conducting business and dealing with the accounts in a particular manner, more specifically, in a calculated manner. Therefore, in the interest of justice, the Court must allow the Appellate authority to go into such details and the manner of operation and accounting by the dealers and make a final finding and such a final finding would be of greater relevance and assistance for the purpose of exercise of the power of judicial review by the High Court under Article 226 of the Constitution of India.

7. The power of judicial review conferred under Article 226 of the

Constitution of India is to scrutinize the processes, through which, an adjudication is made and a decision is taken by the competent authority in consonance with the provisions of the Statute, but not the decision itself. This being the scope of judicial review in a writ proceedings, the aggrieved person at the first instance must be allowed to exhaust the Appellate remedy, which will be of much assistance even for an aggrieved person to discuss about certain business transactions and accounting details before the authority, who is well versed with such matters.

8. The Courts are admitting writ petitions on one point, which may be convincing. However, there are many other points on facts are to be adjudicated. Keeping a writ petition pending for a longer period and not allowing a litigant to get a final decision in such matters would undoubtedly cause prejudice and hardship both to the litigant as well as the Revenue. Therefore, in such matters, where Appellate remedy is contemplated, High Court is expected to be cautious in admitting the matters in a routine manner. Wherever factual adjudications are required, then it is preferable to allow the aggrieved person to approach the authority at the first instance,

enabling him to resolve the issues as expeditiously as possible. Contrarily, admitting a writ petition at one point and keep it pending for a prolonged period, then the prolongevity of the litigation would cause prejudice to the interest of the assessee and also to the Revenue as well. All the circumstances should be waived even at the admission stage by the High Courts. It is not as if, certain factual disputes can be adjudicated in a writ proceedings. Such an attempt by the High Court even may end in futile at the final hearing.

9. Thus, this Court is of an opinion that in the present case, the petitioner has to prefer an appeal both in the interest of justice as well as in the interest of the parties to the lis on hand. Accordingly, the petitioner is at liberty to prefer an appeal before the competent Appellate authority within a period of four weeks from the date of receipt of a copy of this order in a prescribed format and by complying with the provisions of the Act and the Rules. If any such appeal is filed, the Appellate authority shall condone the delay, if any and entertain the appeal, adjudicate the issues and dispose of the same as expeditiously as possible and by affording opportunity to the

writ petitioner in the manner prescribed.

10. With these directions, all the writ petitions stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

16.08.2021

Speaking order/Non-speaking order
Index : Yes/No
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Note: *Registry is directed to return the original copy of the impugned orders to the learned counsel on record for the petitioner.*

To

The State Tax Officer,
Adyar Assessment Circle,
No.244, 2nd Floor,
Anna Salai,
Nandanam,
Chennai – 600 035.

S.M.SUBRAMANIAM, J.

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