



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.9274 of 2014
and M.P.No.1 of 2014

Datacraft India Ltd.,
Now known as Dimension Data India Ltd.,
Rep. By its J.Mohanraj
Regional Head
Oval Building,
Nos.10 & 12, Venkat Narayana Road,
T.Nagar, Chennai 600 017.

...Petitioner

Vs.

The Assistant Commissioner (CT)
Nungambakkam Assessment Circle,
No.88, Mayor Ramanathan Salai,
Chennai 31.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the impugned order of respondent passed in CST No.635502/2003-04 dated 10.03.2014 and to quash the same.

For Petitioner : Mr.N.Murali

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

ORDER

The original assessment order passed by the respondent in proceeding dated 10.03.2014 is under challenge in the present Writ Petition. The assessment order was for the Assessment Year 2003-04.

2.The learned counsel for the petitioner made a submission that the issues with reference to the sale of particular goods was already settled and therefore, the tax imposed by the respondent in the assessment order is contrary to the earlier order passed by the appellate authority on the very same subject. Even the High Court also granted the benefit of exemption, in respect of the certain commodities and those



१२.५ आमेव अरुति

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, along with the judgments relied upon and the orders, if any passed by the appellate authority on earlier circumstances, etc., in a prescribed format and by complying with the provisions of the Act, within a period of four weeks from the date of receipt of a copy of this order and if any such



appeal is filed by the petitioner, the same shall be entertained and disposed of by the appellate authority, by affording opportunity to the petitioner, in the manner known to law.

With this direction, the Writ Petition stands disposed of.
No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gsa

To

The Assistant Commissioner (CT)
Nungambakkam Assessment Circle,
No.88, Mayor Ramanathan Salai,
Chennai 31.

Copy to

The Section Officer,
ER Section, High Court,
Madras-104.

+1cc to Mr.N.Murali, Advocate Sr.32442
+1cc to the Special Government Pleader Sr.32700

W.P.No.9274 of 2014

pch[col]
srg 11/08/2021