BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 16.03.2021
CORAM:
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
W.P.(MD)No.15566 of 2019
and
W.M.P.(MD)No.12229 of 2019

Tvl.Nataraj Oil Mills Pvt.Ltd.,
Rep. by its Director,
Uthangudi, Madurai.
... Petitioner

-Vs-

The State Tax Officer,
Melur Assessment Circle,
Melur. ... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records on the file of the respondent in TIN: 33774940751/2015-16, dated 29.05.2019 and quash the same as illegal, invalid and against the principles of natural justice.

For Petitioner : Mr.A.Chandrasekar
For Respondent : Mr.G.Arjunan
Government Advocate

ORDER

Heard the learned counsel on either side.

2.The petitioner is a dealer registered with the respondent. The case on hand pertains to the assessment year 2015-16. The petitioner's deemed assessment was reopened and adverse order was passed on 29.06.2018. The same was set aside in W.P.(MD) No.16990 of 2018 by order dated 02.08.2018. Following the remand, a fresh pre-revision notice was issued on 22.03.2019. The petitioner gave his reply. The personal hearing was granted. Thereafter, the impugned order dated 29.05.2019 came to be passed. Questioning the same, the Writ Petition came to be filed.

3.The respondent has filed a detailed counter affidavit. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and wanted me to once again remand the order to the file of the respondent.

4. A consideration of the petitioner's counsel's contentions would warrant appreciation of the facts involved. I am afraid that

in writ jurisdiction, I cannot undertake such a exercise. For instance, in the pre-revision notice, it has been mentioned that while the verification of the returns revealed that the petitioner has claimed exemption on a turnover of Rs.49,20,86,146/-, as per Form WW, it has been mentioned that turnover was Rs.62,78,74,263/- regarding the exemption commodities. This is obviously a discrepancy. I wanted to verify if in the objections, this discrepancy has been dealt with. I find that in the objections, this aspect has not at all been gone into. Therefore, the respondent has chosen to confirm the proposals set out in the notice.

5. Of-course, the learned counsel would now come up with certain explanation. In fact, in the affidavit filed in support of the writ petition, some explanation is given. But then, the explanation has to be given only before the appellate authority. It is well settled that it is a continuation of the original proceedings. What can be done before the appellate authority cannot be done before the Writ Court.

6.Therefore, I have to necessarily relegate the petitioner to avail alternative remedy of statutory appeal. Leaving open the petitioner's contentions, the Writ Petition is dismissed. If the petitioner files the statutory appeal within a period of four weeks from the date of receipt of a copy of this order, the appellate authority will entertain the same without reference to limitation. Of-course, the other formalities will have to be complied with by the petitioner. The petitioner's counsel would also state that a huge refund has to be made to the petitioner from the office of the respondent. If the refunds are due to the petitioner, of-course, the same can be taken note of by the appellate authority, while considering the quantum of pre-deposit of 25%. Since the original order has been filed in the writ petition, the petitioner can file an appeal by enclosing the notarized photocopy of the order and the appellate authority will accept the same. All the other contentions of the petitioner are left open. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

rmi

Note :In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To
The State Tax Officer,
Melur Assessment Circle,
Melur.

+1 CC to M/s.A.CHANDRASEKARAN, Advocate (SR-11388[F] dated 16/03/2021)

W.P.(MD)No.15566 of 2019
and
W.M.P.(MD)No.12229 of 2019

16.03.2021

CN(06.05.2021) 3P 3C