IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 31.01.2022
CORAM

THE HONOURABLE MR. JUSTICE R. MAHADEVAN
AND
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

W.A.No. 83 of 2022
and
CMP. No. 741 of 2022

Parvathy Ortho Hospital Pvt.Ltd.
No.241, GST Road, Chrompet,
Chennai - 600 044,
Represented by its Director,
Dr.S.Muthukumar .. Appellant

Versus

The Assistant Commissioner (ST)
Chrompet Assessment Circle,
Nandanam, Chennai - 600 035. .. Respondent

Writ Appeal filed under Clause 15 of Letters Patent against the order dated 23.11.2021 passed by the learned single judge in W.P.No.24997 of 2021.

Prayer in WP.No.24997 of 2021: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari Calling for the records relating to the issuance of impugned Assessment Order bearing Ref.No.TIN/33050947657/2016-2017 dated 04.10.2021 to the extent objected herein and quash the same.

For Appellant : Mr.Manohar Sundaram

For Respondent : Mr.NRR.Arun Natarajan
Special Government Pleader (Taxes)

JUDGMENT

(Judgment of the Court was delivered by R. MAHADEVAN, J.)

Heard Mr.Manohar Sundaram, learned counsel for the appellant and Mr.NRR.Arun Natarajan, learned Special Government Pleader (Taxes) appearing for the respondent.

2.Feeling aggrieved by the order dated 23.11.2021 passed by the learned judge in W.P. No. 24997 of 2021, the assessee has filed this intra court appeal. By the order impugned herein, the writ petition was dismissed with liberty to the appellant to file a statutory appeal within a period of fifteen days from the date of receipt of a copy of the order and on such filing, the appellate authority shall consider the same and pass appropriate orders, on merits, within a period of four weeks.

3.According to the appellant / assessee, they are engaged in the business of providing medical and health care services relating to orthopaedics. For the assessment year 2016-17, they duly filed its monthly returns in accordance with the provisions of the Tamil Nadu Value Added Tax Act, 2006. After scrutiny of the same, the respondent issued a show cause notice dated 11.01.2021 proposing to levy tax under the TNVAT Act, to which, the appellant filed its reply on 26.02.2021 along with certain documentary evidence. Partly accepting the contentions of the assessee, the respondent dropped the proposal in respect of four items, but confirmed the proposal in respect of six items and passed the assessment order dated 04.10.2021. It is the main grievance of the appellant / assessee that without providing sufficient opportunities to substantiate their contentions, the respondent passed the assessment order on the ground that adequate documentary evidences were not filed by the assessee, which is in complete disregard to the principles of natural justice. Therefore, the appellant filed WP.No.24997 of 2021 to set aside the order of assessment. However, the learned Judge dismissed the writ petition, by order dated 23.11.2021, which is questioned herein.

4.On a perusal of the documents enclosed in the typed set of papers, we find that the appellant / assessee was granted opportunity to substantiate their claim by producing documentary evidence. That is why, the learned Judge directed the appellant to approach the appellate authority by way of appeal, while dismissing the writ petition filed by them challenging the assessment order passed by the respondent. Therefore, we find no infirmity or illegality in the order so passed by the learned Judge.

5.At this juncture, the learned counsel for the appellant begs to appeal to this court that the appellant / assessee is in possession of all the necessary documents in support of their claim and therefore, an opportunity be provided to them to place all those materials before the assessing officer for consideration. Having regard to the plea so made on the side of the appellant, which appears to be reasonable and also in the interest of justice, we grant yet another opportunity to the appellant to submit all the relevant documents to the respondent and co-operate with the completion of the assessment. For that limited purpose, the order of the learned Judge is set aside and the matter is remanded back to the respondent for fresh consideration. The appellant / assessee shall file the requisite documents to the respondent on 10.02.2022 at 10:30 a.m. and make their submissions through their authorised representative. On such filing and the submission, if any, made by the appellant, the respondent shall pass appropriate orders within a period of two weeks thereafter.

6.This writ appeal stands disposed of accordingly. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-)

//True Copy//

Sub Assistant Registrar

dhk

To

The Assistant Commissioner (ST)
Chrompet Assessment Circle,
Nandanam, Chennai - 600 035.

+1cc to the Special Government Pleader(Taxes) SR.No.6311

W.A. No. 83 of 2022

PMK(CO)
GN(28/02/2022)