IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition Nos.5197, 5200 and 5205 of 2022
and
W.M.P.Nos.5295,5296,5302,5303,5304 and 5306 of 2022

M/s.Kadhambari Construction
Rep. by its partner J.Atralarasan,
No.3, North St.,Viswanathapuram,
Koradacherry,
Thiruvarur District. ...Petitioner in all W.Ps.

-Vs-

The Commercial Tax Officer,
Nannilam,
Thiruvarur District. ...Respondent in all W.Ps.

Prayer in W.P.No.5197/2022 :Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, call for the records of the respondent in connection with the impugned order passed by the respondent in TIN 33084021328/2012-13 dated 19.11.2021 and quash the same.

Prayer in W.P.No.5200/2022 :Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, call for the records of the respondent in connection with the impugned order passed by the respondent in TIN 33084021328/2014-15 dated 19.11.2021 and quash the same.

Prayer in W.P.No.5205/2022 :Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, call for the records of the respondent in connection with the impugned order passed by the respondent in TIN R.C.No. 202/2018/B1 dated 19.11.2021 and quash the same.

For Petitioner in all W.Ps : Mr.S.Gurumoorthy

For Respondent in all W.Ps : Mr.V.Prasanth Kiran
Government Advocate

COMMON ORDER

These writ petitions have been filed challenging the assessment orders passed by the Revenue for three assessment years ie., 2012-13, 2014-15 and 2015-16 under Section 22(4) of the TNVAT Act, 2006 (In short 'the Act')

2. Not satisfied with the returns submitted by the assessee under Section 22(1) of the Act, the Revenue decided to assess and issued notice at least twice on the basis of the information they received from the Chennai Corporation, with whom the petitioner assessee had been a Works Contractor. Notice in Form 'O' and a revised notice was also issued, for which reply has been given by the petitioner assessee and thereafter a personal hearing was also given to the petitioner assessee, which was not properly utilised by the assessee.

3. In that circumstances, final orders ie., assessment orders dated 19.11.2021 under Section 22(4) of the Act was passed, which are impugned herein.

4. Though Mr.S.Gurumoorthy, learned counsel for the petitioner made an attempt to state that, the procedure adopted by the respondent Revenue which has culminated in the impugned orders dated 19.11.2021 is an arbitrary exercise of power unmindful of Section 6 and 13 of the Act, this Court is not impressed with the said ground raised by the petitioner.

5. It has been repeatedly held by this Court that, without exhausting the appellate remedy, which is statutorily available and is an efficacious alternative remedy, when these kind of cases come up invoking the extraordinary jurisdiction under Article 226 of the Constitution of India, that can be entertained only under three circumstances.

i. Violation of principles of natural justice
ii. Violation of statutory provisions, and
iii. For want of jurisdiction

6. In the absence of any of the above three circumstances, no writ petition would be entertained under Article 226 of the Constitution of India. This is one such case which does not

fall in any of the aforesaid category. Therefore, the petitioner has to only approach the appellate authority assailing the impugned orders.

7. Hence, these writ petitions are liable to be dismissed. Accordingly, the same are dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

s/d-
Assistant Registrar(CS VII)

True Copy

Sub-Assistant Registrar

KST

To

The Commercial Tax Officer,
Nannilam,
Thiruvarur District.

+3cc to M/s.S.Sivakumar,Advocate,S.R.No.16323,16324 & 16325

+1cc to Special Government Pleader(Taxes), SR.No.16352

W.P.No.5197,5200
and
5205 of 2022

JP-II(CO)
RN(24/03/2022)