IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.6464 of 2022
and
W.M.P.No.6559 of 2022

IGP Engineers Pvt. Ltd,
Represented by its Assistant General Manager,
Mr.P.Kumaravel …. Petitioner

-Vs-

The Assistant Commissioner (ST)
Harbour Assessment Circle,
Chennai-600 003. …. Respondent

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the records of assessment order bearing reference TIN:33690100107/2008-09 dated 08.02.2022 issued by the respondent herein, and quash the same.

For Petitioner :Mr.Adithya Reddy

For Respondent :Mr.R.Siddharth,
Government Advocate

O R D E R

The prayer sought for herein is for a Writ of Certiorari calling for the records of assessment order bearing reference TIN:33690100107/2008-09 dated 08.02.2022 issued by the respondent herein, and quash the same.

2. The petitioner is a dealer under the erstwhile TNVAT Act and in respect of Assessment Year 2008-09 certain defects were noticed. Therefore, in order to have an assessment under Section 27 of the said Act, notice was issued and the dealer's

reply also has been considered. However, based on the A.G's report on 05.01.2022, now the order of assessment has been passed, where the input tax credit availed by the petitioner assessee has been reversed. The present order dated 08.02.2022 passed under Section 27 of the Act is under challenge now.

3. Heard Mr.Adithya Reddy, learned counsel for the petitioner who would submit that, if at all the assessing authority decides the issue based on the objection raised by the petitioner on merits, the petitioner may not have much grievance. However, since the assessing authority has stated that based on the A.G's report alone this order has been passed, this order cannot stand the legal scrutiny.

4. Heard Mr.R.Siddharth, learned Government Advocate appearing for the respondents.

5. Though such an argument was advanced by the learned counsel for the petitioner, I am not impressed with the same, because, as against the order dated 08.02.2022, the petitioner dealer can very well prefer an appeal before the appellate authority under the provisions of the said Act itself, and without exhausting the same, the petitioner cannot invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India.

6. Whatever may be the objections which were raised and not considered as alleged by the counsel for the petitioner, can be agitated before the appellate authority as core issue to be decided by the appellate authority. Therefore, the petitioner since is having effective appeal remedy, he can very well be relegated to go before the appellate authority. For that reason, this Court is not inclined to entertain this writ petition. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar(CS-II)

// True Copy //

Sub Assistant Registrar

ANU/KST

To

The Assistant Commissioner (ST)
Harbour Assessment Circle,
Chennai-600 003.

+1cc to Mr.Adithya Reddy, Advocate SR.No.19382
+1cc to Special Government Pleader(Taxes), SR.No.20027

W.P.No.6464 of 2022
and
W.M.P.No.6559 of 2022

GSM(CO)
CB(31/03/2022)