



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2022

CORAM

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.6103 of 2022
and
W.M.P.Nos.6194 & 6195 of 2022

Tvl. Gemini Edibles & Fats India Private Limited,
Rep. By Mr.D.C. Thiyagarajan -
Authorized Signatory,
New No.6, Old No.12/1, Bazaar Lane,
Mylapore, Chennai - 600 004.

...Petitioner

Vs

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

...Respondent

Prayer : Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari calling for the records on the file of the respondent in TIN/33870141136/2014-2015 dated 04.02.2022 and quash the same.

For Petitioner: Mr.S.N.Kirubanandam

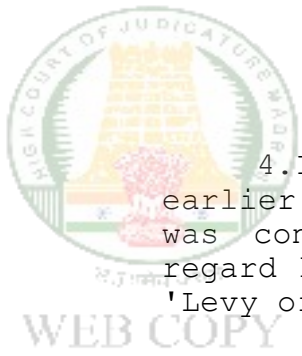
For Respondent: Mr.C.Harsha Raj
Additional Government Pleader

ORDER

The prayer sought for herein is for a writ of certiorari calling for the records on the file of the respondent in TIN/33870141136/2014-2015 dated 04.02.2022 and quash the same.

2. The petitioner is a dealer under the erstwhile Tamil Nadu Value Added Tax Act, 2006 (in short 'the Act').

3. In respect of assessment year 2014-15, order under Section 27 has been passed on 04.02.2022, challenging the same, the present writ petition has been filed.



4. In the impugned order, under four heads, the proposal earlier given through show cause notice having been considered was confirmed after considering the reply submitted in this regard by the petitioner, except the Defect No.4 under the head 'Levy of tax on difference in import purchases'.

5. In respect of all other three heads, it is the case of the petitioner, as projected by Mr.S.N.Kirubanandam, learned counsel for the petitioner that, all his purchase imports is from Andhra Pradesh and therefore, in respect of which, the tax now has been confirmed through the impugned order ought not to have been made as that has been made without considering the reply submitted by the petitioner, hence the order impugned is liable to be set aside, he contended.

6. However, Mr.C.Harsha Raj, learned Additional Government Pleader appearing for the respondent would submit that, in this case, first of all appeal should have been filed against the impugned order, without having exhausted the appeal remedy the petitioner ought not to have invoked the extraordinary jurisdiction of this Court under Article 226.

7. He would also submit that, there is no violation of principles of natural justice. Notice had been given and reply was also received from the petitioner and after giving personal hearing only this order dated 04.02.2022 has been passed. Therefore, for no plausible reason since such a writ petition has been filed, the present challenge made is unsustainable, accordingly, he seeks dismissal of this writ petition.

8. Heard the learned counsel appearing for both sides.

9. As has been rightly pointed out by the learned Additional Government Pleader appearing for the respondent, here it is not the case where the principles of natural justice has been violated nor it is the case of violation of any statutory provisions or for want of jurisdiction, the order impugned cannot be assailed successfully. Therefore, in this matter, this Court has no hesitation to hold that, the petitioner can be relegated to the Appellate Authority to challenge the impugned order as this writ petition is not entertainable for any of all the three reasons cited. Accordingly, this Writ Petition is dismissed with a liberty to approach the Appellate Authority to file an appeal against the impugned order dated 04.02.2022. If such an appeal is filed within a period of three weeks from the date of receipt of a copy of this order, the same shall be entertained and decided on merits by the Appellate Authority after giving an opportunity of being heard to both sides.



WEB COPY

10. With this observation, this Writ Petition is dismissed.
No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS VII)

//True Copy//

Sub Assistant Registrar

Sgl

To

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

+1cc to Mr. S. N. Kirubanandam, Advocate, S.R.No.22841

+1cc to the Special Government Pleader, (Taxes) S.R.No.23258

W.P. No.6103 of 2022

AK (CO)
RGA (22/04/2022)