



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.03.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.7336 of 2022
and
W.M.P.No.7367 of 2022

Durga Industries

...Petitioner

-Vs-

Assistant Commissioner (ST),
Koyambedu Assessment Circle,
Chennai.

...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 the respondent in his proceedings leading to passing of the Revised Assessment Order vide TIN:33661085304/2015-16 dated 14.02.2022 and quash the same.

For Petitioner : Mr.S.Sathyanarayanan

For Respondent : Mr.V.Prashanth Kiran,
Government Advocate

O R D E R

The prayer sought for herein is for a Writ of Certiorari calling for the records of the respondent in his proceedings leading to passing of the Revised Assessment Order vide TIN:33661085304/2015-16 dated 14.02.2022 and quash the same.

2. The petitioner is a dealer under the erstwhile TNVAT Act, 2006 (In short 'the Act'). Against the petitioner dealer, for the assessment year 2015-16, an order of assessment has been passed on 20.06.2018 by reversing the Input Tax Credit and also



imposed penalty. As against which, Writ Petition was filed by the petitioner in W.P.No.21939 of 2018 before this Court.

3. The said Writ Petition was disposed of by the order of this Court dated 28.08.2018, where the learned Judge of this Court having set aside the impugned order, directed to treat the said order as notice and the petitioner was permitted to give reply to the said order/notice. Thereafter, it was directed to be considered and decided on merits.

4. Accordingly, the petitioner had chosen to give reply on 10.10.2019. Thereafter, further notice had been issued on 01.11.2019 and 03.11.2020 by the Revenue, which have also been responded by the petitioner dated 21.11.2019 and 03.11.2020. Thereafter, considering all these, the Revenue has passed an order on 14.02.2022 reversing the ITC as well as imposing penalty. As against that order, the present Writ Petition has been filed by the petitioner with the aforesaid prayer.

5. Heard Mr.S.Sathyannarayanan, learned counsel for the petitioner, who reiterated the afore stated and seeks indulgence of this Court for allowing the Writ Petition.

6. Mr.V.Prasanth Kiran, learned Government Advocate appearing for the respondent submit that as per the remand order made by this Court, after considering the reply submitted by the petitioner, the present order has been passed by the Revenue against which the petitioner can very well file an appeal before the appellate authority, without which, the petitioner cannot invoke the extraordinary jurisdiction under Article 226 of the Constitution of India before this Court. Therefore, the challenge now made by way of Writ petition is not entertainable, he contended.

7. I have considered the submissions made by the learned counsel appearing on either side and have perused the materials placed on record.

8. As has been rightly pointed out by the learned Government Advocate that, as against the impugned order dated 14.02.2022, the petitioner can very well file appeal before the appellate authority. Without availing the appeal remedy, he has no reason to challenge the impugned order before this Court under Article 226 of the Constitution of India, as no violation of principle of natural justice is noticed.



9. In that view of the matter, this Court is inclined to dismiss the writ petition. Accordingly, the Writ Petition stands dismissed. No Costs. Consequently, connected Miscellaneous Petition is also dismissed. However, the petitioner is at liberty to approach the appellate authority in the manner known to law.

Sd/-

Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

Anu/KST

To

The Assistant Commissioner (ST),
Koyambedu Assessment Circle,
Chennai.

Copy to:

The Section Officer,
ER Section,
High Court,
Madras.

(return the original impugned order on
getting due acknowledgement from the counsel
on record and after retaining a photocopy
of the same)

+1cc to Mr.S.Sathyanarayanan, Advocate SR. No.22201
+1cc to Special Government Pleader (Taxes) SR. No.21884

W.P.No.7336 of 2022

SKM (CO)
PR (12/04/2022)