IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2022

CORAM

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.9845 of 2022
and
W.M.P.Nos.9552 & 9555 of 2022

M/s.Shree Ganesh Ventures,
Represented by its Partner
Mr.Rahul Saraf,
No.14A, Ennore High Road,
Thiruvottiyur,
Chennai - 600 019.

... Petitioner

Vs

The Assistant Commissioner (CT),
Thiruvottiyur Assessment Circle,
Integrated Commercial Taxes Office Complex,
Survey No.1275/3, Elephant Gate Bridge,
Chennai. .. Respondent

Prayer : Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for the impugned proceedings of the respondent in TIN:33621101719/2013-2014 dated 24.06.2016 and quash the same.

For Petitioner : Mr.P.Rajkumar

For Respondents : Mr.V.Prasanth Kiran
Government Advocate

ORDER

The petitioner was a dealer under erstwhile Tamil Nadu Value Added Tax Act, 2006 (in short 'the TNVAT Act'). With regard to the assessment year 2013-14 under the said Act, an order of assessment was passed dated 24.06.2016 reversing the ITC, which according to the Revenue was wrongly claimed by the petitioner dealer without having a valid 'C' form.

2. That order is now under challenge in this writ petition.

3. Before going to the other grounds urged by Mr.P.Rajkumar, learned counsel appearing for the petitioner dealer, this Court posed a question as to how this writ

petition can be entertained after six years of the date of the impugned order, the learned counsel would submit that, after passing this order, some notices were issued and Section 84 rectification application was filed that was also not considered and therefore, recovery notice was issued. When that recovery notice was challenged before this Court, it was a question then also asked by this Court that, why the basic order i.e., the present impugned order was not challenged, leisurely this is the reason now after six years, the impugned order has been challenged, is stated.

4. The said reasoning stated by the learned counsel is totally bereft of any merits, because, if at all the petitioner is aggrieved over the order dated 24.06.2016, he should have challenged it by filing an appeal before the Appellate Authority.

5. Assuming that, if there are any grounds under which the order impugned can be challenged before this Court invoking the extraordinary jurisdiction under Article 226, that could have also been done immediately. Here, neither he has filed an appeal nor filed a writ petition, after six years he has now filed this writ petition, therefore, on the ground of latches, this Court, in the considered opinion, the writ petition is liable to be rejected.

6. That apart, since there is an appeal remedy available for the petitioner, the impugned order can very well be challenged before the Appellate Authority by stating whatever the reason for filing a belated appeal before the Appellate Authority.

7. In that view of the matter, this Court is not inclined to entertain this writ petition, hence, it is liable to be dismissed, accordingly, it is dismissed. However, this dismissal will not preclude the petitioner to file an appeal against the impugned order before the Appellate Authority. If such an appeal is filed, depending upon the reasons to be submitted by filing the belated appeal, the same can be entertained after evaluating such reasons in proper perspective by the Appellate Authority.

8. With these observations and directions, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

Sgl

To

The Assistant Commissioner (CT),
Thiruvottiyur Assessment Circle,
Integrated Commercial Taxes Office Complex,
Survey No.1275/3, Elephant Gate Bridge,
Chennai.

+1 cc to Mr.P.Raj Kumar, Advocate Sr.NO. 28025
+1 cc to Spl.Government Pleader(Taxes) Sr.NO. 28426

W.P.No..9845 of 2022

SRA(CO)
A.SK(05/05/2022)