IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
AND
THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.A.Nos. 2603, 2614 and 2613 of 2022 and
C.M.P.Nos.20642, 20747 and 20746 of 2022

JKR Mills,
Rep. by its Proprietrix,
Mrs.Kalpana Jayabalakrishnan,
11 A, Nalagoundampalayam,
Karmathampatti, Coimbatore District. .. Appellant in all W.A.'s

-vs-

1. The Assistant Commissioner (CT) (FAC),
   Tirupur Central II Circle,Tirupur.

2. The Joint Commissioner (Enf) CT,
   Coimbatore-641018. ... Respondents in all W.A.'s

Prayer: Writ Appeal filed under Clause 15 of Letter Patent Act, to set aside the order dated 11.08.2021 passed in W.P.Nos.12207, 12205 and 12206 of 2013 and allow the Writ Appeals.

For Appellant : Mr.M.Hariharan
For Respondents : Mr.Prashanth Kiran
Government Advocate

COMMON JUDGMENT

These Writ Appeals have been preferred challenging the order dated 11.08.2021 passed in W.P.Nos.12207, 12205 and 12206 of 2013, by which, the learned Single Judge disposed of the Writ Petitions, giving liberty to the Writ Petitioners to prefer an Appeal before the Competent Appellate Authority and directed the Appellate Authority to condone the delay, if any, taking into consideration the pendency of the writ petitions before this Court and dispose of the Appeal, on merits and in accordance with law, by affording an opportunity to the Writ Petitioner as early as possible.

2. Heard both sides. Perused the records.

3. We are not going to delve into the merits of the case as the Writ Petitioner has approached this Court stating that though Hank Yarn falls under exempted category, fixing tax liability u/s. 12(1) of the Tamil Nadu Value Added Tax Act, 2006 is not sustainable. That apart, no opportunity of hearing was granted to the Appellant/Writ Petitioner to submit their explanation before the 1st Respondent.

4. From the records, it *Prima facie* appears that the Appellant/ Writ Petitioner was not given opportunity of personal hearing. Though we are aware that the Apex Court has held that in case of existence / availability of alternative remedy, the Writ petition should not be entertained as a matter of routine/ course. However, it is also made clear by the Hon'ble Supreme Court time and again that writ petition is a discretionary remedy and has also carved out exceptions to the rule of alternative remedy viz., where the order under challenge suffers from violation of principles of natural justice or bad for want of jurisdiction or a question of vires of provision is in issue. In the present case, the

Appellant/ Writ Petitioner was not granted an opportunity of personal hearing, despite request the order thus stands vitiated for violation of principles of natural justice. We are thus inclined to interfere and set aside the order of the learned Single Judge on that ground alone and remit the matter back to the original authority to decide the issue on merits.

5. In view of the same, these Writ Appeals are allowed. The Impugned Order passed by the learned Single Judge dated 11.08.2021 in W.P.Nos. 12205, 12206 and 12207, is set aside and the matter is remitted back to the original authority for passing orders afresh and the authority concerned is expected to decide the issue on merits and in accordance with law, within a period of ***three months*** from the date of receipt of a copy of this order, after affording an opportunity of hearing to the Appellant/Writ Petitioner, specific date of personal hearing shall also be indicated to avoid uncertainty. However, it is open to the Appellant/Writ Petitioner to file necessary documents in support of his contentions. No costs. Consequently, connected Miscellaneous Petitions are closed.

[S.V.N., J.] **[M.S.Q., J.]**
05.12.2022

Index: Yes / No
Internet: Yes / No
arr/mka

S. VAIDYANATHAN, J.
and

MOHAMMED SHAFFIQ, J.

arr/mka

To

1. The Assistant Commissioner (CT) (FAC),
   Tirupur Central II Circle,
   Tirupur.

2. The Joint Commissioner (Enf) CT,
   Coimbatore-641018.

W.A.Nos. 2603, 2614 and 2613 of 2022

05.12.2022