IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.11.2022

CORAM

THE HON'BLE MR. JUSTICE S. VAIDYANATHAN

AND

THE HON'BLE MR. JUSTICE C. SARAVANAN

W.A. No. 2522 of 2022
&
C.M.P. No. 19888 of 2022

M/s. Kadhambari Construction,
rep. by its partner J. Atralarasan,
No.3, North Street, Viswanathapuram,
Koradacherry, Thiruvarur District. ..Appellant

Vs.

The Commercial Tax Officer,
Nannilam, Thiruvarur District. ..Respondent

Prayer: Writ Appeal as against the order dated 09.03.2022 passed in W.P. No. 5197 of 2022.

For Appellant :: Mr.S. Sivakumar

For Respondent :: Mr.Prashanth Kiran,

Govt. Advocate (T)

JUDGMENT

S. VAIDYANATHAN,J.

AND

C. SARAVANAN,J.

The present writ appeal is directed against the order dated 09.03.2022 passed in W.P. No. 5197 of 2022.

2. The writ petition was filed challenging the final order of assessment dated 19.11.2021 passed under Section 22(4) of Tamil Nadu Value Added Tax Act, 2006 (in short, 'the Act'). The appellant/writ petitioner had contended that the procedure adopted by the Revenue, which had resulted in the impugned order, was an arbitrary exercise of power in violation of Sections 6 and 13 of the Act. However, the learned Single Judge, on the ground that when an efficacious alternative remedy by way of statutory appeal is available and not yet exhausted and further, in the absence of any violation of principles of natural justice or violation of statutory provisions or want of jurisdiction, dismissed the writ petition.

Aggrieved by the same, the present writ appeal has been preferred.

3. Heard both sides.

4. Though several contentions were raised by the learned counsel for the appellant, we are unable to appreciate the same. Since the appellant/petitioner has got an efficacious and alternative remedy by way of statutory appeal, the appellant/writ petitioner is entitled to avail the same in the manner known to law.

5. Considering the fact that the limitation for filing a statutory appeal as against the order of assessment impugned in the writ petition would have expired long before, we are inclined to give liberty to the appellant/writ petitioner to prefer an appeal within a period of 30 days from the date of receipt of a copy of this order subject to other compliances of provisions of the Act. In case, such an appeal is filed within such time, the First Appellate Authority shall consider and dispose of the appeal on merits and in accordance with law without reference to limitation. The appellant is

at liberty to raise all defences that are available in law in the appeal.

6. The writ appeal stands dismissed with the above liberty. No costs. Connected C.M.P. is closed.

(S.V.N.J.) (C.S.N.J.)

nv 21.11.2022

To
The Commercial Tax Officer,
Nannilam, Thiruvarur District.

S. VAIDYANATHAN,J.

AND

C. SARAVANAN,J.

nv

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