IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2022

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN
and
THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.A. Nos. 3110, 3136, 3138 and 3139 of 2021
and
C.M.P. Nos. 21586, 21704, 21715 and 21716 of 2021

M/s. Paras Granites
Represented by its Proprietor
M.Parasmal Choudhary
No.19-A, SIPCOT
Hosur-635 126
Krishnagiri District. .. Appellant in all W.As

Versus

The Assistant Commissioner (CT)
Hosur North
Hosur, Krishnagiri District. .. Respondent in all W.As

Appeals filed under Clause 15 of the Letters Patent to set aside the common order dated 24.11.2020 passed in W.P. Nos. 5924 to 5927 of 2015.

Prayer in WP.No.5924 of 2015: Writ Petition filed under Article 226 of the Constitution of India pryaing to issue a Writ of Certiorari, calling for the records on the file of the respondent in his impugned proceedings made in TIN:33613322297/2010-2011 dated 30/09/2014, quash the same as illegal and contrary to the scheme of the Act.

Prayer in WP.No.5925 of 2015: Writ Petition filed under Article 226 of the Constitution of India pryaing to issue a Writ of Certiorari, calling for the records on the file of the respondent in his impugned proceedings made in TIN:33613322297/2011-2012 dated 30/09/2014, quash the same as illegal and contrary to the scheme of the Act.

Prayer in WP.No.5926 of 2015:Writ Petition filed under Article 226 of the Constitution of India pryaing to issue a Writ of Certiorari, calling for the records on the file of the respondent in his impugned proceedings made in TIN:33613322297/2012-2013 dated 30/09/2014, quash the same as illegal and contrary to the scheme of the Act.

Prayer in WP.No.5927 of 2015:
Writ Petition filed under Article 226 of the Constitution of India pryaing to issue a Writ of Certiorari, calling for the records on the file of the respondent in his impugned proceedings made in TIN:33613322297/2013-2014 dated 30/09/2014, quash the same as illegal and contrary to the scheme of the Act.

For Appellant :Mr. Manoharan Sundaram
in all the appeals

For Respondent :Mr. Arun Natarajan.A.N.R.
Special Government Pleader (Taxes)
in all the appeals

COMMON JUDGMENT

(Judgment of the Court was delivered by R.Mahadevan, J.)

These intra-court appeals have been filed by the assessee challenging the common order dated 24.11.2020 passed by the learned single Judge in W.P. Nos. 5924 to 5927 of 2015.

2.The appellant is doing the business of granite polished slab and assessee on the file of the respondent. They are the registered dealer under the Tamil Nadu Value Added Tax Act, 2006 (in short, 'The TNVAT Act, 2006'). For the assessment years 2010-11, 2011-12, 2012-13 and 2013-14, the appellant filed their returns, claiming input tax credit. Upon scrutiny of the same, pointing out certain defects and sales suppression, the respondent issued notices proposing to levy tax and penalty under the TNVAT Act, 2006 and calling upon the appellant to respond to the same. Thereafter, they passed the assessment orders dated 30.09.2014, confirming the proposals made in the said notices. Challenging the same, the appellant preferred the writ petitions viz., WP.Nos.5924 to 5927 of 2015. By order dated 24.11.2020, the learned single judge dismissed the said writ petitions, on the ground that the appellant did not avail appeal remedy under section 51 of the TNVAT Act, within the maximum limitation period. Aggrieved over the same, the appellant is before this court with the present writ appeals.

3.According to the learned counsel for the appellant, in the writ petitions, the appellant challenged the assessment orders for want of jurisdiction and reasons of unauthorised levy of tax and penalty, apart from making equal addition of turnover, that too, without affording opportunity of personal hearing, which violates the principles of natural justice. The said writ petitions were admitted and an order of interim stay was granted on 05.03.2015. However, the learned single judge, without going into the merits of the case, dismissed the writ petitions on the ground that the assessment orders were challenged after the expiry of period of limitation of 60 days, by order impugned herein, which is arbitrary, illegal and contrary to law.

4.On the other hand, the learned Special Government Pleader (Taxes) appearing for the respondent made his submission supporting the order passed by the learned single Judge.

5.Heard both sides and perused the documents placed before this court.

6.Strictly speaking, there cannot be any time limit for invoking writ jurisdiction. However, it is settled law that by way of self imposed restrictions, the High court will not entertain any writ petition, when an efficacious alternate remedy before the appellate authority is available to the aggrieved party. Therefore, we are not inclined to delve into the legality of the issue raised herein, but inclined to permit the appellant to approach the appellate authority under section 51 of the TNVAT Act against the assessment orders passed by the respondent. The learned Special Government Pleader appearing for the respondent has not raised any objection for granting such relief to the appellant. On that score alone, the order impugned in these writ appeals is liable to be set aside.

7. Accordingly, the order dated 24.11.2020 passed by the learned single judge in WP Nos.5924 to 5927 of 2015, is set aside. The appellant is permitted to approach the appellate authority by filing appeals within a period of two weeks from the date of receipt of a copy of this judgment. On such filing, the appellate authority shall entertain the same, without raising any issue as regards the limitation, and pass appropriate orders, on merits, after affording reasonable opportunity of hearing to the appellant, within a period of six months thereafter.

8.All the writ appeals stand disposed of, in the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

Maya

To

The Assistant Commissioner (CT)
Hosur North
Hosur, Krishnagiri District.

+1cc to Mr.Manoharan Sundaram, Advocate, S.R.No.2159
+1cc to Special Government Pleader(Taxes), S.R.No.2917

WA Nos. 3110, 3136, 3138 and 3139 of 2021

AD(CO)
CB(01/02/2022)