IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.10.2022

CORAM

THE HON'BLE MR. JUSTICE S. VAIDYANATHAN

AND

THE HON'BLE MR. JUSTICE C. SARAVANAN

W.A. No. 2391 of 2022

&

C.M.P. No. 18309 of 2022

MJG Traders rep. by its Proprietor,
Mr.M. Jayagopal,
Pondy-Tindivanam Road,
Vanur taluk,
Villupuram – 605 111. ..Appellant

Vs.

The State Tax Officer (Addl.),
Tindivanam Circle,
Tindivanam – 604 001. ..Respondent

Prayer: Writ Appeal as against the order dated 14.06.2022 passed in W.P. No. 11425 of 2019.

For Appellant	::	Ms. Sri Harini
For Respondent	::	Mr.T.N.C. Kaushik,

Addl. Govt.Pleader

JUDGMENT

S. VAIDYANATHAN,J.

AND

C. SARAVANAN,J.

The appellant has filed this writ appeal as against the order dated 14.06.2022 passed by the learned Single Judge in W.P. No.11425 of 2019. By the aforesaid order, the learned Single Judge has dismissed the writ petition. In the said writ petition, the petitioner had challenged the order passed by the respondent dated 20.06.2018 for the assessment year 2013-2014.

2. The case of the appellant/writ petitioner appears to be that the petitioner's turnover was below the threshold limit and therefore, the writ petitioner was not liable to pay tax. Therefore, the order passed by the respondent was required to be quashed, which the Writ Court had failed to note. It is further submitted that the impugned order passed by the learned Single Judge upholding the order of the respondent is liable to be set aside.

3. Opposing the same, learned Additional Government Pleader for the respondent would submit that the writ petition itself was not maintainable as the writ petitioner without availing the alternate remedy, had slept over its rights under the provisions of the Tamil Nadu Value Added Tax Act, 2006. It is therefore submitted that the order dismissing the writ petition deserves to be upheld.

4. We have considered the arguments advanced by the learned counsel for the appellant and the learned Additional Government Pleader for the respondent.

5. It is noticed that the respondent had passed an order on 20.06.2018. Instead of filing a statutory appeal before the Appellate Assistant Commissioner, the appellant/writ petitioner had invoked the jurisdiction of this Court under Article 226 of the Constitution of India by way of a writ petition long after the expiry of the limitation period for filing

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an appeal. Since the order has been passed by the respondent only after issuing notice to the appellant/writ petitioner, calling for objections, if any, we do not find any reason to interfere with the order under challenge save that we give liberty to the appellant to file an appeal within a period of three months from the date of receipt of a copy of this order. The writ appeal is disposed of accordingly. No costs. Connected C.M.P. is closed.

(S.V.N.J.) (C.S.N.J.)
27.10.2022

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To

The State Tax Officer (Addl.),
Tindivanam Circle,
Tindivanam – 604 001.

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