BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.06.2022

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THE HONOURABLE **MR.JUSTICE S.S.SUNDAR**
and
THE HONOURABLE **MRS.JUSTICE S.SRIMATHY**

W.A(MD)No.621 of 2022

M/s.Jai Ranga Mills Limited,
represented by its Managing Director,
K.R.Geetha, Rajapalayam-626 117. ... Appellant

Vs.

1.State of Tamil Nadu,
represented by its Secretary to Government,
Department of Commercial Taxes,
Fort St.George, Chennai-9.

2.The Commercial Tax Officer-1,
(now re-designated as Assistant
Commissioner (ST) -I),
Rajapalayam. ... Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letter Patent to set aside the order passed in W.P.(MD)No.393 of 2022, dated 01.02.2022.

For Appellant :Mr.A.S.Mujibur Rahman

For Respondents :Mr.J.Ashok
Additional Government Pleader

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JUDGMENT

(Judgment of the Court was delivered by **S.S.SUNDAR, J.**)

The petitioner in W.P.(MD)No.393 of 2022 is the appellant in this appeal. Challenging the assessment order passed by the second respondent in his proceedings vide TNGST No.6040444/1996-97, dated 20.09.2021, the appellant has filed the above Writ Petition in W.P.(MD)No.393 of 2022.

2.Heard Mr.A.S.Mujibur Rahman, learned Counsel for the appellant and Mr.J.Ashok, learned Additional Government Pleader, who takes notice for the respondents. By consent of both parties, this Writ Appeal is taken up for final disposal at the stage of admission itself.

3.Though several grounds on merits were raised by the appellant/writ petitioner in the affidavit filed in support of the Writ Petition, the Writ Petition was ultimately dismissed only on the ground that the appellant/Writ Petitioner has an effective alternative remedy and that there is no reason to entertain the Writ Petition.

4.This Court is not convinced with the arguments of the learned Counsel for the appellant that the Writ Petition can be entertained, because, same order is likely to be passed, as that of the order impugned in the Writ Petition, even if the statutory remedy is availed. The learned Counsel for the appellant relied upon a judgment of Division Bench of this Court and submitted that the said judgment is squarely applicable to the case on hand and that therefore, the matter can be decided on merits on the basis of the judgment of Division Bench of this Court.

5.However, every case has to be decided on its own facts and the question whether the Division Bench's judgment is applicable to the present case cannot be decided, without going into the disputed questions of facts. It is not the case that the impugned order challenged in the Writ Petition is invalid on the ground of violation of principles of natural justice and it is also not the case that the impugned order has been passed by the second respondent without jurisdiction. Hence, this Court is not inclined to interfere with the order of learned Single Judge. Therefore, this Writ Appeal is dismissed. No costs.

[S.S.S.R., J.] **[S.S.Y., J.]**
29.06.2022

Index : Yes / No

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To

1.The Secretary to Government,
State of Tamil Nadu,
Department of Commercial Taxes,
Fort St.George, Chennai-9.

2.The Commercial Tax Officer-1,
(now re-designated as Assistant Commissioner (ST) -I),
Rajapalayam.

S.S.SUNDAR, J.

and

S.SRIMATHY, J.

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