IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2023

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.8070 of 2021
and
W.M.P. No.8055 of 2021

M/s.Welcord Component Industries,
B-8, PIPDIC Industries Estate,
Mettupalayam, Puducherry-605 009. ... Petitioner

Vs.

1.The Assistant Commissioner (Appeal),
Commercial Taxes Department,
Puducherry.

2.The Deputy Commercial Tax Officer (IAC),
Commercial Taxes Department,
Puducherry. ... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records on the file of the 1st Respondent herein in common order vide proceedings in Appeal No.12/PVAT/2020-21/AC(APPEAL) and Appeal No.13/CST/2020-21/AC (APPEAL) order dated 24.11.2020 quashing the same.

For Petitioner : Mr.P.Suresh

For Respondents : Mr.R.Sreedhar
Additional Govt. Pleader (Pondicherry)

ORDER

The writ petition is filed challenging the order of the Appellate Authority dated 24.11.2020.

2. The petitioner is engaged in the business of importing diode from China for manufacturing of "Wire Insulated Assembly" which involves small processes like cutting, bending, crimping, braiding and moulding. The petitioner also sells electric cords and connectors. There was a seizure of the books of accounts by the Excise Department. An order of assessment dated 29.03.2019 for the assessment year 2014-15 came to be passed wherein taxes was levied on sales of PVC resin to M/s.Shanmuga Plastics Puducherry treating the same as sales suppression and certain other purchasers viz., M/s.Jain Trading Company, New Delhi and M/s.Welcord Component Ind. Pvt. Ltd. respectively were treated as purchases made and sales suppression was arrived at in respect of the same by adding a gross profit of 10%. The above turnover was subjected to tax at 14.5% and penalty was also levied on the above suppression.

3. Aggrieved, the petitioner preferred an appeal before Assistant Commissioner (Appeals) in Appeal No.12/PVAT/2020-21/AC(APPEAL) and Appeal No.13/CST/2020-21/AC (APPEAL), the same was dismissed by the 1st Respondent herein.

4. The learned counsel for the Respondents would raise a preliminary objection that the present writ petition ought not to be entertained inasmuch as alternative remedy by way of appeal is available before the Appellate Tribunal under Section 49 of the Puducherry Value Added Tax Act, 2007.

5. When this was pointed out, the learned counsel for the petitioner submitted that he may be granted liberty to file an appeal before the Sales Tax Appellate Tribunal, Puducherry, to which, there was no serious objection by the learned counsel for the Respondents.

6. In view of the above, the writ petition stands disposed of with liberty to the petitioner to approach the Tribunal within a period of 6 weeks from the date of receipt of a copy of this order. If such appeal is filed, the Tribunal shall entertain

the same subject to complying with other conditions including pre-deposit without reference to limitation. No Costs. Consequently, connected miscellaneous petition is closed.

06.10.2023

Speaking (or) Non Speaking Order
Index:Yes/No
Neutral Citation: Yes/No
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To:
The Commissioner of Customs (Air),
Chennai I Commissionerate,
III Floor, New Custom House,
Meenambakkam, Chennai-600 027.

MOHAMMED SHAFFIQ, J.

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and
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