IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 08.02.2023**

CORAM:

**THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE**

**W.P.No.3608 of 2023 &**
**W.M.P.No.3686 of 2023**

M/s.Lakshmi Co.,
Rep by its Proprietor - K.Nandagopal,
No.30, Amman Kovil Street,
Venkitapuram,
Coimbatore-641 013,
Coimbatore District. ... Petitioner

vs.

The State Tax Officer
Mettupalayam Road Circle,
Coimbatore- 641 018
Coimbatore District. ...Respondent

**Prayer:** Writ petition filed under Article 226 of the Constitution of India for writ of Certiorari calling for the records on the files of the Respondent in its impugned proceedings made in CST No.640427/ 2017 - 18 dated 18.05.2022 quash the same in so far as it relates to the disallowance of concessional rate of tax @ 2 percent on a total value of Rs.86,67,000 /-.

For Petitioner : Mr.S.Raja Sekar

For Respondent : Mr.M.Venkateswaran
Special Government Pleader

**ORDER**

The petitioner has challenged the impugned assessment order dated 18.05.2022 passed by the respondent under the Central Sales Tax Act.

2. Mr.M.Venkateswaran, learned Special Government Pleader accepts notice on behalf of the respondent. By consent of both the parties, this writ petition is taken up for final disposal in the admission stage itself.

3. Heard Mr.S.Raja Sekar, learned counsel for the petitioner and Mr.M.Venkateswaran, learned Special Government Pleader appearing for the respondent.

4. Admittedly, there is an appellate statutory remedy available to the petitioner, if aggrieved by the impugned assessment order. The primary ground raised in this writ petition for approaching this Court under Article 226 of the Constitution of India is that the respondent is not entitled to disallow the concessional levy on the following grounds:

(a) When the alleged declaration form C is itself declared to be fake/bogus or defective.

(b) When the commodity/goods dealt with by the petitioner is ineligible for the concessional rate of tax as per the Act itself.

(c) Where the Form B-Certificate of registration of the said dealer does not cover the goods in question.

5. The petitioner contends that none of the aforementioned circumstances arose and therefore, arbitrarily and illegally, the concessional levy available to the petitioner has been disallowed under the impugned assessment order. As seen from the aforementioned grounds raised by the petitioner, it is a matter that has to be decided by the appellate authority and not by this Court under Article 226 of the Constitution of India. The petitioner has also filed the writ petition after a lapse of more than six months from passing of the impugned assessment order dated 18.05.2022 and on that ground also, this Court is not inclined to entertain the writ petition at this stage. The only limited relief that can be granted to the petitioner is to direct them to file a statutory appeal before the appellate authority, if aggrieved by the impugned assessment order dated 18.05.2022 by extending the time for the petitioner to file the said appeal as the time period has already got expired.

6. This Court is of the considered view that it would suffice if the petitioner is granted four weeks time to prefer the statutory appeal as against the impugned assessment order dated 18.05.2022 passed by the respondent.

7. For the foregoing reasons, this writ petition is **disposed of** by directing the petitioner to file the statutory appeal as against the impugned assessment order dated 18.05.2022 passed by the respondent before the appellate authority within a period of four weeks from the date of receipt of a copy of this Order. On receipt of the said statutory appeal within the stipulated time, the appellate authority shall entertain the same and decide the same on merits and in accordance with law after giving due consideration to the contentions of the petitioner raised in this writ petition without reference to limitation. No costs. Consequently, connected miscellaneous petition is closed.

08.02.2023

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Index: Yes/No
Speaking order/Non-Speaking Order
Neutral Citation : Yes/No

To

The State Tax Officer
Mettupalayam Road Circle,
Coimbatore- 641 018
Coimbatore District.

**ABDUL QUDDHOSE, J.**
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**W.P.No.3608 of 2023**

**08.02.2023**