BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.06.2023

CORAM :

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.A(MD)No.668 of 2023
and
CMP(MD)No.5976 of 2023

M/s.Chinnamanur Sri Annai Abirami chit (P) Ltd.,
Represented by its Managing Director S.Samandi,
429, South Car Street, Seepalakottai Road,
Chinnamanur, Theni District. ... Appellant

vs.

1. The Assistant Commissioner of GST & Central Excise,
Dindigul-II Division, Dindigul.

2. The Superintendent of CGST & Central Excise,
Theni Range, Theni. ... Respondents

PRAYER : Appeal filed under Clause 15 of Letters Patent, to set aside the order of the learned Judge passed in W.P(MD)No. 25291/2022 dated 08.11.2022 on the file of this Court.

For Appellant : Mr.S.Karunakar
For Respondents : Mr.N.Dilipkumar
Senior Standing Counsel assisted by
Mr.K.Prabhu, Junior Standing Counsel

JUDGMENT

(Judgment of the Court was made by R.SUBRAMANIAN, J.)

The Writ Court has rejected the claim of the writ petitioner on the ground of availability of alternative remedy. The only impediment that is projected by the learned counsel for the appellant is that there is a condition for pre-deposit.

2. The learned Senior Standing Counsel appearing for the respondents would point out that the requirement of pre-deposit is only 7.5% of the tax levied which cannot be considered as onerous.

3. We agree with the learned Standing Counsel appearing for the respondents. Even though the learned counsel for the appellant would urge other contentions on merits, in view of the availability of alternative remedy before the appellate authority which can go into the questions of fact also, we desist from considering those questions at this stage.

4. Hence, we sustain the order of the Writ Court. In view of the fact that the writ petition and the appeal were pending and the

fact that the lockdown imposed was also in force, we grant time to the appellant to prefer an appeal within a period of one month from the date of receipt of a copy of this judgment. If the appeal is filed within the aforesaid period of one month, the appellate authority will entertain the appeal without reference to delay.

5. Accordingly, the Writ Appeal is dismissed. No costs. Connected miscellaneous petition is closed.

(R.SUBRAMANIAN, J.) & (L.VICTORIA GOWRI, J.)
02.06.2023

Index : Yes / No
Internet : Yes
Neutral Citation : Yes / No
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To

1. The Assistant Commissioner of GST & Central Excise,
Dindigul-II Division, Dindigul.

2. The Superintendent of CGST & Central Excise,
Theni Range, Theni.

R.SUBRAMANIAN, J.
and
L.VICTORIA GOWRI, J.

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JUDGMENT MADE IN
W.A(MD)No.668 of 2023
DATED : 02.06.2023