IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2024

CORAM

THE HON'BLE MR. JUSTICE S. VAIDYANATHAN

AND

THE HON'BLE MR.JUSTICE K. RAJASEKAR

W.A. No. 297 of 2024

&

C.M.P. Nos. 1835 & 1839 of 2024

M/s. Sarmangal Synthetics Pvt. Ltd.,
represented by its Managing Director
Shri B. Nirmal Jain,
SF 136/2, S. Mettupalayam Post,
Kovilpalayam Via,
Pollachi – 642 110. ..Appellant

Vs.

Assistant Commissioner (State Tax),
Pollachi Rural Assessment Circle,
Pollachi. ..Respondent

Prayer: Writ Appeal as against the order dated 01.11.2023 passed in W.P. No. 12961 of 2021.

For Appellant	::	Mr.G. Natarajan
For Respondent	::	Ms.Amirta Dinakaran, Government Advocate

J U D G M E N T

(Delivered by S. Vaidyanathan,J)

The present writ appeal is directed against the order of the learned Single Judge dated 01.11.2023 passed in W.P. No. 12961 of 2021.

2. The appellant had preferred the writ petition challenging the assessment order dated 29.03.2021 contending that polyester yarn was erroneously subjected to tax at the rate of 14.5% instead of 5%. However, before the learned Single Judge, a concession was made by the learned counsel for the petitioner that time may be granted to prefer an appeal before the Appellate Authority and the learned Single Judge had also granted four weeks' time.

3. In the present appeal, it is contended by the learned counsel for the appellant that jurisdiction issue is also involved and that the learned Single Judge should have considered the same and passed a composite order.

4. Admittedly, the writ petition has been disposed of based on the

concession made by the appellant. The issue with regard to jurisdiction of the authority can always be raised by the appellant before the Appellate Authority and the Bench cannot go beyond the concession made before the learned Single Judge. If an erroneous concession had been made, it is for the writ petitioner to file a review application before the learned Single Judge and a writ appeal would not be maintainable. Hence, the writ

S. VAIDYANATHAN,J

AND

K. RAJASEKAR,J.

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appeal stands dismissed and it is open to the appellant to prefer an appeal before the Appellate Authority within a period of two weeks' from the date of receipt of a copy of this order, if not already done and the Appellate Authority shall dispose of the appeal within a period of three months thereafter, after affording an opportunity of hearing to the parties concerned. No costs. Connected C.M.Ps are closed.

(S.V.N.J.) (K.R.S.J.)

nv 31.01.2024

To

Assistant Commissioner (State Tax),
Pollachi Rural Assessment Circle,
Pollachi.

W.A. No. 297 of 2024