IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2024

CORAM :

THE HON'BLE MRS. JUSTICE J.NISHA BANU
AND
THE HON'BLE MRS. JUSTICE R.KALAIMATHI

W.A.Nos.2493 of 2024
and
CMP.No.17855 of 2024

M/s.Jasmine Excel
rep.by its Partner
M.H.Khaleel Rahman
No./1, Venkata Subba Reddy Street,
Athipet, Chennai 58. ..Petitioner/Appellant

Vs

The Assistant Commissioner (CT)
Koyambedu Assessment Circle,
Station Market Management Committee
Building, Koyambedu,
Chennai 600 107. .... Respondent/Respondent

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order of the learned Judge dated 22.01.2021, passed in W.P.No.28639 of 2010.

For Appellant : Mr.P.Ramesh

For Respondent : Mr.G.Nanmaran, Spl.G.P

JUDGMENT

(Judgment of the Court was delivered by J.NISHA BANU.,J.)

The Writ Appeal is filed as against the order passed by the learned Single Judge in W.P.No.28639 of 201 dated 22.01.2021.

2. The learned Single Judge set aside the impugned order of the respondent dated 29.10.2010 and remitted the case back to the respondent-Assistant Commissioner (CT), to pass a fresh order. The learned Single Judge further directed the writ petitioner to deposit 50% of the disputed tax with the respondent.

3. We heard both sides and perused the records and the impugned order.

4. The learned Single Judge has given a finding that the writ petitioner

abused the jurisdiction of this court by filing the writ petition and even though the petitioner had a choice to approach the Appellate Commissioner against the order impugned, the petitioner has gained time and postponed the liability. The learned Single Judge, further set aside the impugned assessment order dated 29.10.2010 and directed the petitioner to deposit 50% of the disputed tax within one month. However, the appellant filed this writ appeal with delay of 1084 days, stating that since they are not in a position to settle the dispute under the Samadhan Scheme, this writ appeal is filed.

5. In view of the observations made by the learned Single Judge in paragraphs 11 to 14 of the order dated 22.01.2021, this writ appeal is dismissed. The matter for consideration is already before the respondent-Assistant Commissioner (CT). So it is for the appellant/assessee to go before the respondent and substantiate their stand after complying with the conditions stipulated in the order passed by the learned Single Judge dated 22.01.2021.

6. The respondent-Assistant Commissioner (CT) shall de-novo consider the matter and pass a reasoned order on merits.

7. Finding no merits in the case, the Writ Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(J.N.B.J.) **(R.K.M.,J.)**

09.09.2024

Internet:Yes/No
Index: Yes/No

sk/nvsri

To

The Assistant Commissioner (CT)
Koyambedu Assessment Circle,
Station Market Management Committee
Building, Koyambedu,
Chennai 600 107.

J.NISHA BANU ,J.
and
R.KALAIMATHI, J.

sk/nvsri

W.A.Nos.2493 of 2024

09.09.2024