IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.10.2024

CORAM :

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR
AND
THE HONOURABLE MR.JUSTICE C. SARAVANAN

W.A.No.3121 of 2021

M/s. Eureka Systems And Electrodes (P) Ltd.
Rep. by its Managing Director K.Chandrashekar
11/15a, Selvarajapuram, Chinthamanipudur
Coimbatore 641 103. .. Appellant

Vs.

The Assistant Commissioner (ST)
Palladam-2 Assessment Circle, Palladam. .. Respondent

Prayer: Appeal filed under Clause 15 of the Letters Patent, to set aside the order passed in W.P.No.22074 of 2021 dated 22.10.2021 insofar as the levy of tax is concerned.

For the Appellant : Mr.S.Ramanathan

For the Respondent : Ms.Amirtha Poonkodi Dinakaran
Government Advocate

JUDGMENT

(Judgment of the Court was authored by R.SURESH KUMAR, J.)

This intra-Court appeal has been directed against the order of the Writ Court dated 22.10.2021 in W.P.No.22074 of 2021.

2. The appellant/writ petitioner filed the said writ petition

invoking the extraordinary jurisdiction under Article 226 of the Constitution of India against the assessment proceedings in CST No.750340/2000-01 dated 02.09.2021. In fact, against the order which was impugned before the Writ Court, the appellant could have filed an appeal before the Appellate Deputy Commissioner, but, nonetheless, he has chosen to file a writ petition.

3. The Writ Court, having considered the said writ petition, has ultimately disposed the same on 22.10.2021, whereby, the penalty portion of the order, which was impugned before the Writ Court, has been set aside, but insofar as taxability is concerned, the appellant assessee was directed to file an appeal under Section 31 of the Tamil Nadu Goods and Service Tax Act, 2017, before the Appellate Authority.

4. We have heard *Mr.S.Ramanathan*, learned counsel for the appellant and *Ms.Amirtha Poonkodi Dinakaran*, learned Government Advocate appearing for the respondent Revenue.

5. As against the order impugned before the Writ Court, no doubt, an appeal could have been filed. But, anyhow, the appellant has chosen to file a writ petition, for which, no reason has been

given. This having been considered, the learned Single Judge of this Court has come to the conclusion that with regard to the main issue, that is taxability is concerned, the assessee has to approach only the Appellate Authority.

6. Such a decision taken by the Writ Court, in our considered view, cannot be found fault with and therefore, we do not propose to interfere with the order which is impugned herein. But, at the same time, since long period has gone by this time in view of this litigation, the statutory limitation would have been over. Therefore, the appeal, if any is filed by the appellant assessee as directed by the learned Single Judge through the impugned order, can be directed to be considered by the Appellate Authority on its own merits and in accordance with law.

7. In that view of the matter, this appeal is dismissed with the following directions:

(a) The impugned order is sustained. Hence, the appeal stands dismissed, however with an observation that if an appeal is filed before the Appellate Authority, as directed by the Writ Court in paragraph 21 (c) of the impugned order within a period of two weeks from the date of receipt of a copy of this order, the same shall be entertained by the Appellate Authority and to be decided on its own merits, of course after affording the opportunity of being heard to both sides; and

(b) We also reiterate that while deciding the appeal, to be filed by the appellant assessee, the same be decided on its own merits and not influenced by any observations which has been made by the Writ Court in the order impugned herein.

8. With these directions, the writ appeal stands dismissed. There shall be no order as to costs. Consequently, C.M.P.No.21618 of 2021 is closed.

(R.S.K., J.) (C.S.N, J)
19.10.2024

Neutral Citation:Yes/No

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To:

1. The Assistant Commissioner (St)
   Palladam-2 Assessment Circle, Palladam.

R. SURESH KUMAR, J.
AND
C. SARAVANAN, J.

(drm)

W.A.No.3121 of 2021

19.10.2024