BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.01.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MR.JUSTICE C.KUMARAPPAN

W.A.(MD).Nos.1259 and 1260 of 2016
and
W.M.P(MD)Nos.8586, 8587 and 8588 of 2016

M/s.U Y Look,
Rep. by its Proprietor – N.Senthilkumar
.. Appellant/Petitioner in both W.As

Vs.

The Assistant Commissioner (CT),
Srirangam Assessment Circle,
Srirangam,
Trichy – 620 006,
Trichy District. .. Respondent/Respondent in both W.As

COMMON PRAYER: Writ Appeals filed under Clause 15 of Letters Patent, against the order passed in W.P(MD)Nos.10412, 10411 of 2016, dated 14.06.2016 respectively.

(In both W.Ps)
For Appellant : Mr.S.Rajaselar

For Respondent : Mr.Prakash,
Special Government Pleader

COMMON JUDGMENT

DR.G.JAYACHANDRAN,J.
and
C.KUMARAPPAN,J.

The appellant herein on receipt of assessment order pointing out the mismatch between Annexure – I and Annexure- II, namely, the list of purchase and list of sale, without availing the statutory appeal remedy available under Section 31 of the Tamil Nadu Value Added Tax Act, 2006 and without responding to the notice of assessment, had approached the High Court invoking the extraordinary jurisdiction.

2. The learned Single Judge has rightly pointed out the error in approaching the High Court and had dismissed the writ petitions.

3. Being aggrieved, these two appeals, one for the assessment year 2013-2014, another for the assessment year 2014-2015, have been preferred.

4. The learned counsel appearing for the appellant relying upon the judgment of this Court rendered in ***J.K.M Graphics Solutions Private***

Limited vs. Commercial Tax Officer reported in ***2017 SCC Online Mad 669***, followed by the order passed in a review petition, dated 12.02.2021 and the circular of the Government, dated 24.02.2021, which has formulated a methodology for considering the mismatch in the column of input tax credit, persuaded this Court to entertain the appeals.

5. However, on considering the facts of the case, this Court is not inclined to entertain the appeals primarily on the ground that the appellant has approached this Court without availing the appeal remedy available under the Statute and also had knocked the doors of this Court without responding to the show-cause notice issued by the Department before the assessment order.

6. The learned counsel for the appellant after failing in his attempt to persuade this Court to entertain these appeals, made an alternate plea that his right to avail the appeal remedy may be preserved.

7.This Court is of the view that the statutory appeal remedy available to the appellant shall not be deprived provided he complies the mandatory conditions provided under the Statute to avail the statutory appeal remedy.

8. With these observations, these writ appeals are disposed of. The appellant shall prefer appeal within a period of three weeks from the date of receipt of a copy of this judgment failing which the right of appeal will be forfeited. No Costs. Consequently, connected Miscellaneous Petitions are closed.

(G.J.,J.) (C.K.,J.)
22.01.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
PM

<u>DR.G.JAYACHANDRAN,J.</u>
<u>and</u>
<u>C.KUMARAPPAN,J.</u>

PM

W.A(MD)Nos.1259 ad 1260 of 2016

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