IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2016

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.Nos.17264 & 17265 of 2014
&
Connected MPs

Tvl.Sathiya Process
rep. by its Legal Heir
Mr.Loganayaki, Tirupur. ... Petitioner in both W.Ps

..Vs..

The Commercial Tax Officer
Tirupur (South) Assessment Circle
Tirupur. ... Respondent in both W.Ps

Common Prayer : Writ Petitions filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorari to call for the records on the files of the respondent in TNGST No.2322658/2002-203 and 2003-04 dated 4.6.2014 and quash the same as being without jurisdiction and authority of law and beyond the prescribed period of limitation of five years and therefore contrary to Section 16 of the Tamil Nadu General Sales Tax Act, 1959.

For Petitioner : Mr.R.Senniappan

For Respondent : Mr.K.Venkatesh
Government Advocate

C O M M O N O R D E R

Heard Mr.R.Senniappan, learned counsel for the petitioner and Mr.K.Venkatesh, learned Government Advocate accepting notice on behalf of the respondent.

2.The petitioner has come forward with these Writ Petitions, challenging the notices issued by the respondent dated 04.06.2014, by contending that the notices have been issued beyond the prescribed period of five years from the expiry of the assessment order as from the date of original orders of assessment, is liable to be set aside.

3.The learned counsel for the petitioner on instructions submitted that the petitioner is ready and willing to go before the Assessing Officer, submit objections and also raise the question relating to the limitation.

4.The learned Government Advocate does not have serious objections to such course being adopted by the petitioner.

5.Accordingly, the petitioner is directed to submit their objections to the impugned notices, within a period of fifteen days from the date of receipt of a copy of this order, raising all contentions, including the contention regarding limitation. On receipt of the objections, the respondent shall consider the same, after affording an opportunity of personal hearing and decide the issue of limitation as the first among other issues.

It is needless to state that the respondent being the Assessing Officer should independently take a decision in the matter and not to be solely guided by the proposals submitted by the Enforcement Wing Officials, in the light of the decision of the Hon'ble Division Bench of this Court in the case of MADRAS GRANITES (P) LTD., v. COMMERCIAL TAX OFFICER, ARISIPALAYAM CIRCLE, SALEM AND ANOTHER [2006 (146) STC 642], wherein it has been held that it is well-settled that the assessing officer is a quasi-judicial authority and in exercising his quasi-judicial function of completing the assessment, he is not bound by the instructions or directions of the higher authorities.

The Writ Petitions are disposed of on the above terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

rpa

To

The Commercial Tax Officer
Tirupur (South) Assessment Circle
Tirupur.

+1cc to Mr.R.Senniappan, Advocate, S.R.No.51369
+1cc to the Special Government Pleader(T), S.R.No.51525

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BVR(CO)
CA(27/09/2016)