IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.08.2016

Coram

The Hon'ble Mr.Justice T.S.Sivagnanam

Writ Petition Nos.13796 and 13797 of 2013

and M.P.Nos.1 and 1 of 2013

M/s. Vijayalakshmi Spinning Mills,
Now Known as M/s. Tirupur Vijayalakshmi
Spinning Mills (India) Pvt. Ltd.
rep. by Managing Director,
No.25-A, Anna Street, 15, Velampalayam,
Annupparpalayam (Via., Tirupur - 641 652
...Petitioner in both W.Ps.

Vs.

The Commercial Tax Officer,
Tirupur Rural Circle, Tirupur. ...Respondent in both W.Ps.

Prayer in W.P.No.13796 of 2013

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for records of the respondent in TNGST No.2385119/2002-03, and to quash the order, dated 11.03.2013 as the same is in gross violation of principles of natural justice and without jurisdiction.

Prayer in W.P.No.13797 of 2013

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for records of the respondent in TNGST No.2385119/2003-04, and to quash the order, dated 11.03.2013 as the same is in gross violation of principles of natural justice and without jurisdiction.

For Petitioner	:	Mr.MD.Ghafoorur Rahman
For Respondent	:	M/s.Vasudha Thiagarajan Additional Government Pleader

COMMON O R D E R

Heard Mr.MD.Ghafoorur Rahman, learned counsel appearing for the petitioner, and M/s.Vasudha Thiayagarajan, learned Additional Government Pleader, accepting notice for respondent. Since the issue involved in both the Writ Petitions are one and the same, they are taken up together, and disposed of by this common order.

2. The petitioner in these Writ Petitions has challenged the revision of assessment orders passed by the respondent, under the provisions of Tamil Nadu General Sales Tax Act, 1959 (hereinafter, referred to as 'the TNGST Act').

3. The primary ground on which the impugned orders have been challenged is that, they are barred by limitation.

4. It is not in dispute that the assessment for the relevant years under the provisions of TNGST Act, were completed by the respondent on 31.05.2004 and 16.03.2006, respectively. Admittedly, as against the said orders, there was no Appeal, or Revision, filed by the dealer/petitioner. Therefore, if the Authority wanted to revise the assessment, by exercising power under Section 16 of the TNGST Act, he could have done so within a period of 5 years, as stipulated under Section 16 (1) (a) of the TNGST Act. However, for the first time, pre-revision notices were issued to the petitioner only on 21.05.2012, well beyond the period of five years. On receipt of the notices, the petitioner filed objections on 04.06.2012. In the objections, specific issue relating to the limitation was raised. However, the respondent, while completing the assessments, in a very vague manner, stated that the period, during which Appeal, or Revision is pending, should be excluded. This reason, given by the respondent is incorrect, since factually, no Appeal or Revision was filed against the assessment, which was finalized during the year, 2004.

5. When the Writ Petitions were entertained on 09.05.2013, this Court recorded the submission of the learned counsel for the petitioner that the impugned orders are barred by limitation, i.e. beyond the period of limitation, and recording the same, order of interim stay was granted on 09.05.2013. In spite of lapse of more than 3 years, no counter affidavit has been filed, nor, any instructions has been given to the learned Additional Government Pleader for the respondent.

6. In the light of the above facts, as culled out from the impugned orders, it is evidently clear that the impugned orders are barred by limitation. Accordingly, the Writ Petitions are

allowed and the impugned orders stand quashed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

To

The Commercial Tax Officer,
Tirupur Rural Circle, Tirupur.

Writ Petition Nos.13796 and 13797 of 2013

ALA (CO)
MD : 19/09/2016