IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.08.2018

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.10549 of 2017
and
WMP.No.11466 of 2017

M/s.P.S.B.Steels
Rep. by its Proprietrix
Mrs.S.Saroja
... Petitioner

vs.

The Commercial Tax Officer
Mannargudi Assessment Circle
Mannargudi, Tiruvarur District.
... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the respondent in TIN No.33866386125O/2010-2011 dated 01.02.2017 and quash the same.

For Petitioner : Ms.E.Maheswari for Mr.K.Soundararajan

For Respondent : Ms.G.Dhana Madhri Government Advocate (Tax)

O R D E R

The petitioner is a registered dealer under the Tamil Nadu Value Added Tax Act, 2006 and an Assessee under the respondent herein. The present writ petition is filed challenging the order dated 01.02.2017 for revising the assessment under Section 22(2) of the TNVAT Act, 2006 passed on 06.07.2011 in respect of the assessment year 2010-2011.

2. The main contention of the petitioner is that the present order revising the assessment came to be passed beyond the period of limitation of five years and therefore, it cannot be sustained. It is the specific case of the petitioner that the original order of assessment in respect of the assessment year 2010-2011 was passed on 06.07.2011 and therefore, the present revision of assessment passed on 01.02.2017, admittedly, after five years, is beyond the period of limitation, as contemplated under Section 27(1)(b) of the TNVAT Act, 2006.

3. When the matter was taken up for hearing earlier on 09.08.2018, this Court directed the learned Government Advocate to verify and inform the actual date of original assessment, since the respondent has referred in the impugned order as if the assessment order was passed on 12.05.2012, when it is specifically claimed by the petitioner that it was passed only on 06.07.2011. A copy of the said assessment order dated 06.07.2011 is also enclosed in the typed set of papers.

4. Accordingly, today when the matter is taken up for further hearing, an additional affidavit is filed by the respondent stating that it was wrongly typed as 12.05.2012 instead of 06.07.2011, while referring to the original date of order of assessment, in the impugned order. It is further stated that the said mistake was an inadvertent error, which is neither willfull nor wanton.

5. Therefore, the learned Government Advocate (Tax) fairly submitted that the original order of assessment having been passed on 06.07.2011, the present impugned order revising such assessment passed on 01.02.2017 is out of time. Therefore, it is apparent that the impugned exercise of the respondent in revising the assessment after the period of limitation as contemplated under Section 27(1)(b) cannot be sustained, as the said exercise is undoubtedly barred by limitation. Consequently, the impugned order is liable to set aside solely on the ground that the same is barred by limitation. Accordingly, this writ petition is allowed and the impugned order is set aside. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True copy//

Sub Assistant Registrar

To

The Commercial Tax Officer
Mannargudi Assessment Circle
Mannargudi, Tiruvarur District.

+1cc to Mr.K. Soundararajan, Advocate SR.No.58133
+1cc to Government Pleader SR.No.58133

W.P.No.10549 of 2017

GM(03/09/2018)