In the High Court of Judicature at Madras

Dated : 10.4.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.7802 of 2018 & WMP.No.9713 of 2018

Supermax Personal Care Pvt. Ltd., rep.by its Zonal Sales Development Manager (South India) R.V.Prabhu ...Petitioner

Vs

The Assistant Commissioner (CT), NSC Bose Road Circle, 48/39, Rajaji Salai, Chennai-1. ...Respondent

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records of the respondent in TIN 33910221236/2017-18 dated 27.11.2017 and quash the same.

For Petitioner : Mr.R.Kumar
For Respondent : Mrs.G.Dhana Madhri, GA

ORDER

Heard both. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner has challenged the assessment order passed under Section 27 of the Tamil Nadu Value Added Tax Act, 2006 on the ground that the same is without jurisdiction, as the impugned revised proceedings have been made without even any original assessment.

3. It is submitted that as per Section 22(2) of the said Act, the petitioner shall be deemed to have been assessed for the year 2017-18 on 31.10.2018 and not earlier and that therefore, the impugned assessment order is not sustainable.

4. However, the learned Government Advocate appearing for the respondent seeks to sustain the impugned order on the ground that the impugned assessment order is a final assessment order for a period of three months and that if the petitioner is aggrieved, they can file an appeal.

5. This Court is not convinced with the said submission of the learned Government Advocate for more than one reason. Firstly, unless and until the petitioner is deemed to have been assessed, the question of revision of assessment does not arise

and the power under Section 27 of the said Act cannot be invoked. Secondly, for a deemed assessment to be made under Section 22(2) of the said Act for the relevant year, the Assessing Officer has to necessarily wait till 31st of October 2018. On both these grounds, the impugned order cannot be sustained and is liable to be set aside.

6. Accordingly, the writ petition is allowed, the impugned order is set aside and the respondent is directed to complete the assessment for the entire year in October 2018 after issuing a fresh notice to the petitioner. No costs. Consequently, the connected WMP is closed.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

To

1.The Assistant Commissioner (CT), NSC Bose Road Circle, 48/39, Rajaji Salai, Chennai-1.

+ 1 cc to Mr.R.Kumar Advocate,SR.26306

+ 1 cc to The Govt.Pleader, SR.26884

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WMP.No.9713 of 2018

ad(co)
nr 25/04/2018