

In the High Court of Judicature at Madras

Dated : 23.7.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.18585 of 2018 & WMP.No.21932 of 2018

Girias Investment Private Limited,
rep.by its Director Nitesh Giria ...Petitioner

Vs
The Assistant Commissioner (ST),
Aminjikarai Circle, 50F, I Avenue,
Anna Nagar East, Chennai-102. ...Respondent

PETITION under Article 226 of The Constitution of India
praying for the issuance of a Writ of Certiorari to call for the
records in TIN 33031025365/ 2017-18 dated 03.7.2018 and quash
the same.

For Petitioner : Mr.R.Kumar
For Respondent : Mr.M.Hariharan, AGP

ORDER

Mr.M.Hariharan, learned Additional Government Pleader
accepts notice for the respondent. 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 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/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

The Assistant Commissioner (ST), Aminjikarai Circle, 50F, I Avenue, Anna Nagar East, Chennai-102.

+1cc to Mr.R.Kumar, Advocate sr.no.49127

+1cc to Special Government Pleader(Taxes), sr.no.49564

WP.No.18585 of 2018&
WMP.No.21932 of 2018

gmr(co)
nr 07/08/2018

सत्यमेव जयते
WEB COPY