IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 23.11.2018
CORAM:
THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU
W.P.Nos.30120, 30125, & 30131 of 2018
and
WP.Nos. 30865, 30866 & 30870 of 2018
and
WMP.Nos.35136, 35138, 35142, 35143, 35148 & 35152 of 2018

TVl.Sri Kandan Traders,
Rep. by its Proprietress Tmt.R.Malarvizhi,
No.117, West Street, Tirukoilur,
Villupuram District. ..Petitioner
(in all WPs)

Vs

1. The Deputy Commercial Tax Officer,
Tirukoilur Assessment Circle,
Tirukoilur,
Villupuram District.

2. The Appellate Deputy Commissioner (CT),
Cuddalore,
Cuddalore District. ..Respondents
(in all WPs)

Prayer: Writ Petition Nos.30120 of 2018 filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records in respect of the Proceedings TIN No.33264761630/2011-2012 dated 17.02.2015 of the first respondent under the Tamil Nadu Value Added Tax Act, 2006 and quash the same.

Writ Petition Nos.30125 of 2018 filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records in respect of the Proceedings TIN No.33264761630/2014-2015 dated 12.12.2015 of the first respondent under the Tamil Nadu Value Added Tax Act, 2006 and quash the same.

Writ Petition Nos.30131 of 2018 filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records in respect of the Proceedings TIN No.33264761630/2012-2013 dated 05.10.2015 of the first respondent under the Tamil Nadu Value Added Tax Act, 2006 and quash the same.

Writ Petition Nos.30865 of 2018 filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records in respect of

Appellate order M.P.No.59/2018 dated 10.09.2018 passed by the second respondent in respect of the assessment year 2011-2012 under the Tamil Nadu Value Added Tax Act 2006, quash the same and direct the first respondent to pass an appeal order on merits in respect of appeal preferred by the petitioner against the order TIN No.33264761630/2011-2012 dated 17.02.2015 passed by the first respondent.

Writ Petition Nos.30866 of 2018 filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records in respect of Appellate order M.P.No.60/2018 dated 10.09.2018 passed by the second respondent in respect of the assessment year 2012-2013 under the Tamil Nadu Value Added Tax Act 2006, quash the same and direct the first respondent to pass an appeal order on merits in respect of appeal preferred by the petitioner against the order TIN No.33264761630/2012-2013 dated 05.10.2015 passed by the first respondent.

Writ Petition Nos.30870 of 2018 filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records in respect of Appellate order M.P.No.61/2018 dated 10.09.2018 passed by the second respondent in respect of the assessment year 2014-2015 under the Tamil Nadu Value Added Tax Act 2006, quash the same and direct the first respondent to pass an appeal order on merits in respect of appeal preferred by the petitioner against the order TIN No.33264761630/2014-2015 dated 12.12.2015 passed by the first respondent.

For Petitioner : Mr.Adithya Reddy
(in all WPs)

For Respondents : Mr.M.Hariharan
Additional Government Pleader
(in all WPs)

C O M M O N   O R D E R

Writ Petition Nos. 30120, 30125 and 30131 of 2018 are filed challenging the orders of assessment dated 17.02.2015, 12.12.2015, 05.10.2015 in respect of assessment years 2011-2012, 2012-2013 and 2014-2015 respectively.

2. WP Nos.30865, 30866 & 30870 of 2018 are filed challenging the orders of the Appellate Authority dated 10.09.2018 in rejecting the appeal as time barred.

3. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents.

4. The petitioner is an Assessee under the first respondent in respect of the subject matter assessment years. The orders of assessment were passed as early as in the year 2015 as stated supra. The petitioner did not question the said assessment orders immediately. On the other hand, the appeals were filed after a period of more than two years and thus, the Appellate authority has rejected the appeals as time barred.

5. The only ground on which these writ petitions are filed before this Court is that the issue involved in the impugned assessment orders is mis-match and that the said issue was already considered and decided by this Court in a batch of cases in WP.No.105 of 2016 etc., dated 01.03.2017, reported in JKM Graphics Solutions Vs. CTO, ([2017] 1999 VST 343), thereby giving certain guidelines/directions to the Assessing Officer to re-do the assessment while dealing with mis-match issue. Therefore, it is contended by the learned counsel for the petitioner that these assessment orders should be set aside by giving a direction to the Assessing Officer to re-do the assessment by following the guidelines/directions issued in the above said common order passed by this Court.

6. I do not think that the petitioner is entitled to seek such indulgence from this Court, merely because, the issue involved in the assessment orders is mis-match issue, since the impugned assessment orders were passed nearly 2 1/2 years ago, very much earlier to JKM Graphics decision and that the petitioner did not challenge the same in a manner known to law, if at all they are aggrieved against the same. On the other hand, they have chosen to file the appeals after a period of 2 1/2 years and thus, the Appellate Authority has rightly rejected the appeals as time barred. Thus, the petitioner is not entitled to seek any indulgence from this Court on the sole ground of delay and latches. Therefore, I find no merits to entertain these writ petitions. Accordingly, these writ petitions are dismissed. No costs. Connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Deputy Commercial Tax Officer,
Tirukoilur assessment Circle,
Tirukoilur,
Villupuram District.

2. The Appellate Deputy Commissioner (CT),
Cuddalore,
Cuddalore District.

+2cc to the Special Government Pleader(Taxes),
S.R.No. 80555 & 80558

W.P.Nos.30120, 30125 & 30131
and
30865, 30866 & 30870 of 2018

SSV(CO)
GN(14/12/2018)