**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**Reserved On 04.11.2019**

**Delivered On 12.11.2019**

**CORAM**

**THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU**

**W.P.Nos15165 to 15168 of 2018 (4 W.Ps.)**
**and**
**W.M.P.Nos. 17973 to 17980 of 2018**

M/s.Murugan & Co,
Rep. by its Partner P.A.Sankar,
No.74, Odiampet Road,
Kanuvapet,
Villianur, Puducherry 605 110. ... Petitioner in all W.Ps.

Vs

1.The Union of India,
Rep. by its Commercial Tax Department,
Government of Puducherry.

2.The Commercial Tax Officer-I,
Commercial Taxes Department,
100 Feet Road, Pudupalayam,
Pondicherry 605 005. ... Respondents in all W.Ps.



**Prayer in W.P.15164 of 2018 :**Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of certiorari to call for the records pertaining to the Notice dated 29.01.2016 vide Ref.34210000008/CTO-I/2011-12 and consequential notice dated 23.06.2017 vide Ref:34210000008/CTO-I/A1/2011-12 and Pre-assessment notice dated 28.05.2018 vide Ref:34210000008/CTO-I/2011-12 issued by the second respondent pertaining to the year 2011-12 and quash the same as null and void.

**Prayer in W.P.No.15166 of 2018:**Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of certiorari to call for the records pertaining to the Notice dated 29.01.2016 vide Ref.34210000008/CTO-I/2012-13 and consequential notice dated 23.06.2017 vide Ref:34210000008/CTO-I/A1/2012-13 and Pre-assessment notice dated 28.05.2018 vide Ref:34210000008/CTO-I/2012-13 issued by the second respondent pertaining to the year 2012-13 and quash the same as null and void.

**Prayer in W.P.No.15167 of 2018:**Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of certiorari to call for the records pertaining to the Notice dated 29.01.2016 vide Ref.34210000008/CTO-I/2013-14 and consequential notice dated 23.06.2017 vide Ref:34210000008/CTO-I/A1/2013-14 and Pre-assessment notice dated 28.05.2018 vide Ref:34210000008/CTO-I/2013-14 issued by the second respondent pertaining to the year 2013-14 and quash the same as null and void.



**Prayer in W.P.No.15168 of 2018:**Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of certiorari to call for the records pertaining to the Notice dated 29.01.2016 vide Ref.34210000008/CTO-I/2014-15 and consequential notice dated 23.06.2017 vide Ref:34210000008/CTO-I/A1/2014-15 and Pre-assessment notice dated 28.05.2018 vide Ref:34210000008/CTO-I/2014-15 issued by the second respondent pertaining to the year 2014-15 and quash the same as null and void.

| | |
|---|---|
| For Petitioner in all W.Ps. | : Mr.R.Sreedhar |
| For Respondents in all W.Ps. | : Mr.J.Kumaran, Additional Government Pleader (Pondy) |

## COMMON ORDER

These writ petitions are filed challenging notice dated 29.01.2016, consequential notice dated 23.06.2017 and Pre-assessment notice dated 28.05.2018 relevant to assessment years 2011-2012 to 2014-2015.

2.The case of the petitioner is as follows:

The petitioner is a registered dealer selling chemical fertilizers/Bio fertilizers and LPG within Puducherry region. A notice was issued to the petitioner demanding 12.5% tax for domestic and commercial LPG cylinders alleging that the petitioner had collected such tax from the customers and however, remitted only 1% to the Government. Hence, the petitioner filed writ petition No.21718 of 2012 challenging the said demand on 14.02.2014. The said writ petition was disposed of by giving a direction to the second respondent to issue a show cause notice to the petitioner within a period of two weeks with further direction to the petitioner to give reply within two weeks thereafter. This Court has also directed the second respondent to pass orders within eight weeks thereafter, based on the reply filed by the petitioner. As directed by this Court, the second respondent issued show cause notice for four years i.e., 2007-2008 to 2010-2011 on 19.05.2014. The petitioner filed their reply on 30.05.2014. Based on the reply, the second respondent passed orders on 01.09.2014, demanding 12.50% VAT based on mere surmises and conjectures. The petitioner filed appeals before the First Appellate Authority. Those appeals are still pending with an order of interim stay. The Government of Puducherry issued a notification in G.O.Ms.No.68/F2/2011 dated 31.12.2011, notifying that VAT shall be collected on sale of LPG at 1% for domestic purpose and 3% for industrial purpose. The petitioner firm filed Form-CC pertaining to the assessment years 2011-2012 to 2014-2015. The second respondent issued notices dated 29.01.2016, alleging that while furnishing Form CC, the firm has not furnished the sales details of LPG domestic cylinders, invoices against the sales of LPG domestic cylinders for verification. It was ascertained by the Department that the petitioner had sold LPG cylinder as industrial inputs not only to industries but also to traders which is in violation of Puducherry Value Added Tax Act and Rules 2007. The petitioner gave reply to the said notices on 15.02.2016. The Assessing Officer had neither summoned nor sought any clarification on the returns filed by the petitioner firm. After one year, the second respondent issued another notice dated 23.06.2017 stating that the petitioner firm is liable to pay the differential tax amount. On 10.07.2017, a reply was given by the petitioner. Thereafter, the second respondent had not done anything. However, a Pre-assessment notice dated 28.05.2018 was issued alleging that the petitioner need to pay the differential tax amount at 11.5% with penal interest. The second respondent is not justified in issuing Pre-assessment notice dated 28.05.2018 for the returns filed for the year 2011-12 to 2014-15, after a period of three years, as such action is in violation of Section 24(5) of the said Act, which says that no assessment under this Section for any year shall be made after a period of three years from the end of the year to which the return was filed. Earlier, the second respondent had also issued notice on 29.01.2016, directing the petitioner to pay the differential tax amount, without mentioning the provision under which the said notice was issued. Therefore, these writ petitions are filed questioning the very jurisdiction of the second respondent in issuing the impugned notices.



3. A common counter affidavit dated 05.07.2018 is filed by the respondents, wherein it is stated as follows:

Only those goods that are covered under Section 14 of the CST Act, 1956 are taxable at 4%. Subsequently, the rate of 4% was further reduced to

1%. Entry 45 under Part A of the III Schedule to the PVAT Act, 2007 clearly states that the declared goods as specified under Section 14 of the CST is only chargeable at 4% and therefore, what is specified under Section 14 of the CST Act is LPG for domestic use only. The petitioner filed application before the Authority for Clarification and Advance Rulings to clarify about the VAT rate on sale of LPG cylinder domestic use as well as commercial use. The Authority for Clarification and Advance Rulings by order dated 22.08.2011 clarified that LPG for domestic use taxable at 1% and commercial use at 12.5%. The then Assessing Officer passed assessment order. In the meanwhile, the petitioner filed appeal before the Sales Tax Appellate Tribunal against the order of the Authority for Clarification and Advance Rulings. The petitioner did not disclose the fact that they filed the above appeal, while they filed their objections to the notice of proposal for the assessment years 2007-08 to 2010-11. The Sales Tax Appellate Tribunal by order dated 22.12.2011, granted interim stay till the disposal of the appeal. During the pendency of the tax appeal, the petitioner also filed W.P.No.21718 of 2012 to stay all further proceedings on the file of the Assessing Officer in proceedings dated 22.08.2011. In view of the interim stay granted by the Appellate Tribunal and in view of the pendency of the above writ petition, the Assessing Officer has not taken further action for the remaining assessment years. However, after pronouncement of the order of this Court in W.P.No.21718 of 2012, the Assessing Officer issued summons for the assessment years 2011-12 to 2013-14 on 07.11.2014. Subsequently, the second respondent issued another summon for the assessment years 2011-12 to 2014-15 n 04.01.2016. Hence, the second respondent issued notices for the above assessment years within the period of limitation. The petitioner has totally suppressed the above said summons issued to the petitioner and proceeded to contend as though only pre-assessment notices were issued. On verification of the sales details furnished against the sales of industrial inputs to industries, it was ascertained that the petitioner had sold LPG cylinder as industrial inputs not only to industries but also to traders in violation of PVAT Act and Rules. Hence notices dated 29.01.2016 and 26.03.2017 were issued to the petitioner instructing them to pay the differential tax amount followed by the pre-assessment notices. Before issuing the above notices, the second respondent, as already stated supra, had already issued summons on 07.11.2014 and 04.01.2016. Therefore, the summons/notices issued by the second respondent are well within the period of limitation. The returns submitted by the dealer along with tax due thereon shall be accepted as self-assessed as per section 24(2) of the PVAT Act, 2007. But whereas, as per the proviso to section 24(2)(b) of the PVAT Act, 2007, the assessing authority may select either at his discretion or as directed by the

Commissioner, any dealer for detailed assessment for a tax period or tax periods by scrutiny of accounts and may take best judgment assessment under Section 30 of the PVAT Act, 2007 if so required where the assessing authority is not satisfied with the correctness and completeness of a return filed by a person. Accordingly, summon dated 07.11.2014 & 04.01.2016 were issued and thereafter, notice dated 29.01.2016 and 23.06.2017 were also issued and since the dealer failed to appear, a pre-assessment notice dated 28.05.2018 was issued.

4. An additional common counter affidavit dated 24.10.2018 is filed by the respondents, wherein it is stated as follows:

The second respondent had issued sumon/notices within the period of limitation and therefore, the process of assessment has commenced and consequently, the assessment is well within the period of limitation. The tax liability of the petitioner for the above said assessment years comes to Rs.36,83,074/-. The assessment proceedings had already been started by issuing summons/notices. The delay in passing the order of assessment is only due to the conduct of the petitioner in giving irrelevant reply whenever notice/pre assessment notices were issued.

5. Learned counsel for the petitioner submitted as follows:

The relevant assessment years are 2011-12 to 2014-15. The petitioner has filed their returns for all these assessment years within time. However, the Assessing Officer did not pass the order of assessment within time. Section 24(5) of the Puducherry VAT Act, 2007, specifically bars an assessment for any year after a period of three years from the end of the year to which the return relates. In this case, the very pre assessment notice was issued only on 28.05.2018 for all assessment years. Even the said notice itself is time barred and therefore, the petitioner is not duty bound to answer the said notice, which is per se illegal and without jurisdiction.

6. In support of the above said contention, the learned counsel for the petitioner relied on the decision of the learned Single Judge made in ***W.P.Nos.8059 to 8061 of 2017*** dated ***27.07.2017***.

7. Per contra, the learned Additional Government Pleader appearing for the respondents submitted as follows:

Section 2(e) of the Puducherry VAT Act, 2007 defines "assessment". As per the said definition, the entire process of determination of business turnover of a dealer in the prescribed manner to ascertain the tax liability is to be treated as "assessment" and therefore, the summon issued on 07.11.2014 is well within three years and thus to be treated as commencement of the assessment proceedings. The petitioner is not justified in relying Section 24(5) of the said Act. Once assessment proceedings got initiated by issuing summons on 07.11.2014, further proceedings are not barred under Section 24(5).

8. In support of the above contentions, the learned Additional Government Pleader for the respondents relied on the Full Bench decision of this Court reported in ***91 Law Weekly 307**, **M.Gulam Mohideen vs. The Commissioner of Agricultural Income Tax Board of Revenue*** and ***(1980) 46 STC 151 (Mad) (DB), The State of Tamil Nadu vs. K.O.Mohamed Sulaiman and Co.***

9. Heard both sides and perused the materials placed before this Court.

10. The point for consideration in these writ petitions is as to whether the impugned notices are liable to be interfered with on the ground that they are barred by limitation as provided under Section 24(5) of the PVAT Act, 2007.

11. Relevant assessment years are 2011-12 to 2014-15. According to

the petitioner, though periodical returns were filed in respect of those assessment years in time, the Assessing Officer has not passed the order of assessment within the time stipulated under Section 24(5) of the said Act and therefore, the impugned notices intended to pass the orders of assessment in respect of those assessment orders itself having been issued beyond the period of three years are barred by limitation. Therefore, this Court has to consider the above objection and to find out as to whether the same is sustainable or not, based on the facts and circumstances of the present case and the position of law.

12.Before answering the above issue, it is better to note the relevant provisions under the PVAT Act, 2007 which read as follows.

a) Section 2(e) defines the term "assessment" as follows:

*"assessment" means determination of business turnover of a dealer in the prescribed manner to ascertain the tax liability under this Act by self-assessment, re-assessment and assessment by scrutiny and best judgment assessment;"*



b) Section 24(5) reads as follows:

***"24. Assessment of tax:-***

*..**(5)** Subject to sub-section (6) of this section, no assessment under this section for any year shall be made*

*after a period of three years from the end of the year to which the return under this Act relates."*

Chapter IV of the said Act deals with assessment. Section 24(5) stipulates that no assessment under Section 24 for any year shall be made after a period of three years from the end of the year to which the return relates.

13. A careful perusal of the above provision under Section 24(5) would show that the term "assessment" alone is used and not an "order of assessment". The term "assessment" is defined under Section 2(e) as extracted supra. It means determination of business turnover of a dealer in prescribed manner to ascertain the tax liability under the said Act by self assessment, re-assessment and assessment by scrutiny and best judgment assessment. Therefore, the term "assessment" cannot be construed only as an order of assessment and on the other hand, the said term "assessment" consists several process commencing from the issuance of notice to passing of the order of assessment. Thus, the term "assessment" includes passing of an order of assessment as well and thus, it does not mean the order of assessment as such. Needless to say that for determination of business turnover of a dealer in the prescribed manner and to ascertain the tax liability, the Assessing Officer has to undertake a series of exercise

commencing from the issuance of notice, conducting enquiry and thereafter to pass order of assessment. Accordingly, in my considered view, the phrase used under Section 24(5), viz., ***"no assessment under the Section for any year shall be made after a period of three years"*** cannot be considered as the one of passing the assessment order itself within three years and on the other hand, if the process of making the assessment begins by issuing a notice within the period of three years, the assessment order passed later, even after the expiry of three years, cannot be hit by the period of limitation, as provided under Section 24(5).

14. At this juncture, it is useful to refer to the Full Bench decision of this Court reported in ***91 Law Weekly 307, (M.Gulam Mohideen vs. The Commissioner of Agricultural Income Tax Board of Revenue)***, wherein at paragraph Nos. 10 and 13, it has been observed as follows:

> *"10. In State of Punjab v. Tarachand Lajpat Raj the Court was considering the scope of sub-S.(4) and (5) of S.11 of the Punjab General Salestax Act, 1948. It was held in that case that if a dealer furnishes a return under Sub S(1) or when a notice is issued to him under S.11(2) by the assessing authority within the prescribed period, the assessment can be finalised subsequently even after the expiry of the period and no question of limitation would arise. In State of Punjab v. Muralidhar Mahabir Parshad, it was again reiterated that the*

*period of limitation of three years for making the assessment under sub S.(4) and (5) of S.11 of the Punjab General Salestax Act was only for initiating assessment proceedings and that if the proceedings had been initiated within the period prescribed in the said section the proceedings whenever completed will be valid.*

*....13. Further, the word 'revise' in S.34(2) is a comprehensive expression and it does not merely denote the passing of the order in revision. The word 'revise' cannot be understood to mean pass an order in 'revision'. Revision is a legal process and does not denote the final act of passing an order terminating the legal process. The legal process consists of various steps such as calling for the records of the proceedings, making an enquiry by the revisional authority or causing an enquiry to be made thereon, and passing final orders thereon as the revisional authority thinks fit. Therefore, the entire process commencing from the calling of the records and ending with the passing of the final order has been termed as revision in the said Section. Each one of the steps in the process is a revisional process. Therefore, if any one of the steps in the process has been initiated within the period of limitation, there is no further limitation on the exercise of the power."*



15. In another decision of the Division Bench of this Court reported in ***(1980) 46 STC 151 Madras, The State of Tamil Nadu vs. K.O.Mohamed Sulaiman and Co.***, it is observed at paragraph Nos.21 to 24 as follows:

*"21. In Sales Tax Officer, Special Circle, Ernakulam v. Sudarsanam Iyengar & Sons [1970] 25 S.T.C. 252, the parallel provisions of the Kerala Sales Tax Act were the subject of consideration. Rule 33 of the Travancore-Cochin General Sales Tax Rules, 1950, provided that if for any reason the whole or any part of the turnover of business of a dealer or licensee had escaped assessment to tax in any year, then the assessing authority might at any time within three years next succeeding that to which the tax related determine to the best of his judgment the turnover which had escaped assessment and assess the tax payable. In that case, the assessee was a non-resident dealer carrying on business in the State of Kerala. When the assessments in respect of sales tax for the assessment years 1961-62 and 1962-63 were pending, he applied for the bifurcation of the assessment so that he was assessed at three places at which he carried on the business. The request was acceded to by the Board of Revenue and the orders of assessment relating to 1961-62 and 1962-63 were made in April, 1964, and March, 1964, respectively. The Sales Tax Officer issued notices in December, 1965, for reopening the original assessment on the ground that certain turnover had escaped assessment. There was no dispute before the Supreme Court that the assessment for 1961-62 could not have been reopened by the notice issued in December, 1965. The matter was, therefore, considered only in the light of the facts relating to 1962-63. It was held at page 255 as follows:*

*Assessment is a comprehensive word and can denote* *the entirety of proceedings which are taken with regard to it. It cannot and does not mean a final order of assessment alone unless there is something in the context of a particular provision which compels such a meaning being attributed to it. In our judgment, despite the phraseology employed in Rule 33, the principle which has been laid in other cases relating to analogous provisions in sales tax statute must be followed as otherwise the purpose of a provision like Rule 33 can be completely defeated by taking certain collateral proceedings and obtaining a stay order as was done in the present case or by unduly delaying assessment proceedings beyond a period of three years.*

*22. The decision was that it was enough if the proceedings for assessment of the turnover which had escaped assessment were initiated within three years, and that it was not necessary that the final order of assessment should be made within that period. As the notice was given in December, 1965, for the year 1962-63 within the period of three years, the proceedings were held to be in time.*



*23. This decision of the Supreme Court came up for application in Anglo French Textiles Limited, Pondicherry v. State of Tamil Nadu, represented by the Deputy Commercial Tax Officer, Madurai W.P. Nos. 3939 to 3941 of 1971 decided on 14th March, 1972 (Madras High Court), the judgment dated 14th March, 1972. One of the arguments advanced in that case was that in the Kerala Act there was no provision similar to Section 16(4) of the Tamil Nadu Act and that this would make* *a difference to the applicability of the decision of the Supreme Court. Section 16(4) provides that the time during which the proceedings for assessment remained stayed under the orders of a civil court or other competent authority should be excluded for computing the period of limitation for assessment on the escaped turnover. It was held that this provision had been brought in ex abundanti cautela and that the decision of the Supreme Court would apply, so that, so long as the proceedings were pending within the statutory period, there could be no bar to the completion of the assessment even beyond the statutory period.*

*24. Thus, the result of these authorities is to establish that so long as the proceedings were pending within the statutory period, there could be no bar to the completion of the assessment subsequent thereto. The learned counsel for the assessee contended that this is a case where no return had been filed and that, in such a case, there could be no question of pending proceedings. He relied for this purpose on two decisions."*



16. In ***1969 (2) SCC 396, The Sales Tax Officer vs Messrs Sudarsanam Iyengar and Sons,*** it is observed at paragraph No.4 as follows:

*"4. Rule 33 of the relevant rules is in these terms :*
*Rule 33(1) "If for any reason the whole or any part of the turnover of business of a dealer or licensee has escaped*

*assessment to tax in any year or if the licence fee has escaped levy in any year, the assessing authority or licensing authority as the case may be, subject to the provisions of Sub-rule (2) may at any time within three years next succeeding that to which the tax or licence fee relates determine to the best of his judgment the turnover which has escaped assessment and assess the tax payable or levy the licence fee in such turnover after issuing a notice to the dealer or licensee and after making such enquiry as he considers necessary.*

*Now in view of the previous decisions the principle is firmly established that assessment proceedings under the Sales Tax Act must be held to be pending from the time the proceedings are initiated until they are terminated by a final order of assessment. The distinguishing feature on which emphasis has been laid by the counsel for the respondent is that the language employed in Rule 33 is such as to lead to only one conclusion that the final determination of the turnover which has escaped assessment and the assessment of the tax have to be done within three years. It is pointed out that in the other Sales tax provisions which came up for consideration in the cases mentioned above the words employed were "proceed to assess" e.g., Sub-sections (4) and (5) of Section 11 of the Punjab General Sales Tax Act. Our attention has been invited to the appropriate dictionary meaning of the word "determine" which is "to settle or decide-to come to a judicial decision- (Shorter Oxford English Dictionary). It is suggested that the word "determine" was employed in Rule 33 with a definite intention to set the limit within which the final order in the* *matter of assessment should be made, the limit being three years. We find it difficult to accept that in the context of sales tax legislation the use of the words "proceed to assess" and "determine" would lead to different consequences or result. In this connection the words which follow the word "determine" in Rule 33 must be accorded their due signification. The words "assess the tax payable" cannot be ignored and it is clearly meant that the assessment has to be made within the period prescribed. Assessment is a comprehensive word and can denote the entirety of proceedings which are taken with regard to it. It cannot and does not mean a final order of assessment alone unless there is some thing in the context of a particular provision which compels such a meaning being attributed to it. In our judgment despite the phraseology employed in Rule 33 the principle which has been laid in other cases relating to analogous provisions in sales tax statutes must be followed as otherwise the purpose of a provision like Rule 33 can be completely defeated by taking certain collateral proceedings and obtaining a stay order as was done in the present case or by unduly delaying assessment proceedings beyond a period of three years."*



17. In ***1982(49) STC 58, Jeewanlal (1929) Ltd., v. The State of Tamilnadu,*** the Division Bench of this Court has observed as follows:

*"It was next contended by the learned counsel for the assessee that the period of five years prescribed under Section 16(1) to determine the escaped turnover to the best of*

*judgment has to be calculated with reference to the date of assessment order ultimately made in the reassessment proceedings and not with reference to the notice issued under Section 16, which initiated such proceedings. This point was considered by a Division Bench of this Court, to which one of us was a party (V.Ramaswami,J.) in an unreported judgment in Anglo French Textiles Ltd., Pondicherry v. State of Tamil Nadu (W.P.Nos.3939 to 3941 of 1971 dated 14th March, 1972-Madras High Court). It was held that the word "Determine" in section 16(4) was not employed with an intention to set a time-limit within which a final order in the matter of assessment should be made; but should be understood as meaning, initiating a proceeding to determine the turnover escaped to assessment to tax. In so construing, this Court relied on a decision of the Supreme Court in Sales Tax Officer v. Sudarsanam Iyengar & Sons [1970] 25 STC 252 (SC). That decision was sought to be distinguished on the ground that the provisions of the Travancore Sales Tax Act, which came up for consideration before the Supreme Court in that decision did not contain any specific provision like that in section 16(4) of the Tamil nadu Act and that, therefore, the ratio of the judgment in Sales Tax Officer v. Sudarsanam Iyengar & Sons [1970] 25 STC 252 (SC) was not applicable. This argument was rejected by this Court holding that section 16(4) was introduced ex abundant cautela and even without section 16(4), the time during which the proceedings for assessment or reassessment remained stayed under orders of civil court or other competent authority would have been excluded. In fact this Court has pointed out in the* *unreported judgment, that section 16(4) is an independent provision, which would be applicable to a case where there was no return at all submitted and in that sense it was an assessment, and to a case of reassessment proceedings where there was an original assessment in which some turnover has escaped assessment, and that it could not be read in any way restricting or limiting the scope of powers of section 16. This judgment was followed in two other cases by another Division Bench in State of Tamil Nadu v. Mohamed Sulaiman & Co. [1980] 46 STC 151 and in Lakshmanaswami Chettiar & Sons v. State of Tamil Nadu [1980] 46 STC 327. The contention that the limitation of five years will have to be calculated with reference to the reassessment order made on 18th November, 1975, is therefore untenable."*

18. In W.P.No.36497 of 2006, etc., dated 30.04.2019, a learned Single Judge of this Court, after following the decision of the Supreme court reported in ***1969 (2) SCC 396, The Sales Tax Officer vs Messrs Sudarsanam Iyengar and Sons*** and the Division Bench decision of this Court reported in ***1982(49) STC 58, Jeewanlal (1929) Ltd., v. The State of Tamilnadu,*** has observed that the reassessment proceedings therein were within the limitation period, if the proceedings for reassessment were initiated for commencement prior to the expiry of the limitation period.

19. Perusal of the above decisions and the law laid down therein would undoubtedly show that the contention raised by the petitioner in this case as if the impugned proceedings are barred by limitation, cannot be sustained.

20. Learned counsel for the petitioner sought to rely upon the decision of the learned Single Judge made in ***W.P.Nos.8059 to 8061 of 2017*** dated 27.07.2017. Facts and circumstances of the above case would show that the decision rendered therein is on a different footing. Even otherwise, in view of the above decisions referred to including the decisions of the Full Bench and the Division Bench of this Court and the decision of the Apex Court, I am of the view that the above decision of the learned Single Judge is not helping the petitioner in any manner.



21. In this case, it is seen that summons in Form-PP for the years 2011-12 to 2013-14 were issued on 07.11.2014 and again on 04.01.2016, wherein and whereby the assessee was called upon to produce certain documents with reference to an enquiry under the PVAT Act, 2007, in respect of assessment years 2011-12 to 2014-15. Therefore, the above summons, which is otherwise called as notice calling upon the petitioner to

produce the documents for the purpose of assessment in respect of those assessment years, are to be construed as the commencement of assessment proceedings. When the above said notices were issued before the expiry of three years, this Court is of the view that the consequent Pre-assessment notices impugned in these writ petitions are not barred by limitation and therefore, Section 24(5) is not attracted in these cases in any manner. Needless to state that it is for the petitioner to participate in the assessment process by filing their objection to the notice of proposal and raise all the contentions before the Assessing Officer, as this Court is not expressing any view on the merits of the same, since as these writ petitions are disposed of only by considering the question as to whether the impugned notices are barred by limitation.

22. Accordingly, these writ petitions are dismissed, however by granting liberty to the petitioner to give reply/objection to the notice of proposal within a period of two weeks from the date of receipt of a copy of this order. On receipt of such reply, the Assessing Officer shall give an opportunity of personal hearing to the petitioner and thereafter, pass an

**K.RAVICHANDRABAABU,J.**

**VRI**

order of assessment on merits and in accordance with law within a period of six weeks thereafter. No costs. The connected miscellaneous petitions are closed.

**12.11.2019**

**Index :Yes/No**
**Speaking/Non Speaking**
**vri**

To

1.The Union of India,
Rep. by its Commercial Tax Department,
Government of Puducherry.

2.The Commercial Tax Officer-I,
Commercial Taxes Department,
100 Feet Road, Pudupalayam,
Pondicherry 605 005.



PRE DELIVERY COMMON ORDER IN
W.P.Nos.15165 to 15168 of 2018
and
W.M.P.Nos. 17973 to 17980 of 2018