IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 13.09.2019

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THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.Nos.26483, 26487 and 26488 of 2019
and
W.M.P.Nos.25857, 25860 and 25863 of 2019

M/s.Sri Bhavanimatha Electricals
& Hardwares,
Rep. by its Proprietor R.Bhawarlal
3-1011, Hosur Road,
Thalavadi, Sathy 638 461.

...Petitioner
in both W.Ps.

Vs.

The State Tax Officer,
Sathyamangalam.

... Respondents
in both W.Ps.

COMMON PRAYER : Writ Petitions filed under Article 226 of the Constitution of India for issuance of a Writ of certiorari to call for the records of the respondent vide TIN:33382982293/2007-08, TIN:33382982293/2008-09 and TIN:33382982293/2009-10 and quash the respective impugned proceedings dated 17.07.2019 issued therein.

For Petitioner : Mr.B.Raveendran
in all W.Ps.
For Respondents : Mr.M.Hariharan
in all W.Ps. Additional Government Pleader (T)

C O M M O N   O R D E R

These three writ petitions are filed challenging the notice dated 17.07.2019 relevant to assessment years 2007-08, 2008-09 and 2009-10, for revising the assessment under Section 27(1) of the Tamil Nadu VAT Act. Through the impugned notices, the Assessing Officer proposed to reject the concessional rate of tax under Section 3(4) of the Tamil Nadu VAT Act and assess the subject matter purchases under Section 27(1) of T.N. VAT Act, as referred to in the impugned notices.

2.Heard both sides.

3.In all these three cases, the preliminary objection raised against the very issuance of the notices is that process of revising the assessment by issuing the impugned notice is barred by limitation, since the very impugned notices of proposal itself were issued beyond the period of six years. It is contended that in sofar as the subject matter assessment years, deemed assessment had already taken place on 30.06.2012 as per proviso to Section 22(2) of the Act and therefore, any revision of assessment is permissible under Section 27 of the said Act within a period of six years from the date of deemed assessment. Therefore, it is contended that the very notices dated 31.01.2019 and 17.07.2019 itself are barred by limitation and consequently, the revision of assessment cannot be permitted to go on.

4. When this matter was taken up for admission on 04.09.2019, the learned Government Advocate took notice for the respondent and sought time to get instruction. Accordingly this matter is listed for further hearing today.

5. Mr.M.Hariharan, learned Additional Government Pleader produced copy of the e-mail communication received from the State Tax Officer Sathyamangalam Assessment Circle, sent on 05.09.2019, wherein it is stated that the challenge made before this Court in these writ petitions is barred by limitation. Learned Additional Government Pleader by producing the above said communication submitted that appropriate orders may be passed in these writ petitions.

6. It is seen that in respect of the subject matter assessment years 2007-08, 2008-09 and 2009-10, a deemed assessment had taken place on 30.06.2012, as contemplated under Section 22(2) of the Act. There is no dispute to the fact that any revision of assessment shall be made within a period of six years from the date of such deemed assessment, as required under Section 27 of the TN VAT Act, 2006.

7. In these cases, admittedly, the very notices of proposal for revision of assessment itself came to be issued on 31.01.2019 and 17.07.2019 and both are undoubtedly beyond the period of six years. Therefore, this Court is of the firm view that the very proposal to

revise the assessment is undoubtedly barred by limitation. Accordingly, these writ petitions are allowed and the impugned notices are quashed on the ground that the same are barred by limitation. No costs. The connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

vri

To
The State Tax Officer,
Sathyamangalam.

+1cc to Mr.B.Raveendran , Advocate SR.No. 79001
+1 cc to Spl Government Pleader tax Sr.No. 79256

A.SK(09/10/2019)