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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

WP (MD) NO.17492 OF 2019
AND WPMP (MD) NO.13973 OF 2019

M/s.Pushpam Enterprises
Rep.by its Proprietrix Mrs.Pushpadevi
No.7, Big Bazaar Street,
Kumbakonam
Tanjore District. ... Petitioner

Vs.

The State Tax Officer,
Kumbakonam (Town) Assessment Circle,
Kumbakonam. ... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari to call for the records of the respondent in TIN No.33283941678/2009-2010 dated 29.07.2019 and quash the same as the same is illegal, arbitrary and without jurisdiction as the same is barred by limitation as per the provisions of the Tamil Nadu Value Added Tax Act, 2006 in terms of the division bench of the Hon'ble High Court in the case of M/s.M.U.A.Arumugaperumal and Sons Vs. Additional Commercial Tax Officer (FAC), Srivilliputhur reported in 16 VST 188 [2008] followed in the case of Tvl.India Cycle Stores Vs. The Assistant Commissioner (CT), Bazzar Assessment Circle Salem in W.P.No.32201 of 2017 dated 23.01.2018.

For Petitioner : Mr.R.D.Ganesan

For Respondent : Mrs.S.Padmavathidevi,
Special Government Pleader

O R D E R

The petitioner is a dealer in general goods and an assessee. It filed returns and for the year 2009-2010, the original assessment was completed by accepting the turn over of Rs.9,71,350/- under Section 22(2) of TNVAT Act, vide order dated 27.04.2010. While the matter stood thus, the respondent issued a

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notice dated 10.03.2016 for revision of assessment under Section 27 of TNVAT Act, on the ground of purchase omission of cigarettes effected from Valli and Sons. It is stated that the purchase omission came to effected from Valli and Sons. It is stated that the purchase omission came to the knowledge of the respondent, pursuant to the inspection conducted on 10.12.2014. The sales suppression was estimated at Rs.45,99,487/-and with addition of 5% gross profit, a penalty of Rs.10,44,533/- was levied under Section 27(3) of TNVAT Act. The revision order passed by the respondent is under challenge now.

2. Admittedly, the assessment order was passed on 27.04.2010. As per Section 27 of TNVAT Act, maximum period for revision shall be five years from the date of assessment order. Whereas, in the present case on hand, the revision notice was issued only on 10.03.2016, i.e., after a period of five years. The revision notice must have been issued before 26.04.2015. Eventhough the sale omission was said to have forwarded by the inspecting officers during surprise Inspection on 10.12.2014, they have not taken any steps to issue the revision notice within the limitation period. A Division Bench of this Court in M/s.M.U.A Arumugaperumal and Sons Vs Additional Commercial Tax Officer (FAC) Srivilliputhur [2008 (16) VST 188 (Mad)] has categorically found that revising the assessment order after the time limit provided under statute is barred by limitation. The said decision will squarely apply to the case on hand. Since, the revision was made after a period of five years, it is barred by limitation as per Section 27 of TNVAT Act.

3. Accordingly, the impugned order dated 29.07.2019 passed in the proceedings in TIN No.33283941678/2009-2010 by the respondent is set aside and the writ petition is allowed. No costs. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Records)

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/ /2020

Sub Assistant Registrar(CS)

mj/tk

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To

The State Tax Officer,
Kumbakonam (Town) Assessment Circle,
Kumbakonam.

+1 CC to M/s.R.D. GANESAN, Advocate (SR-91035[F] dated 03/10/2019
+1 CC to M/s.GP (SR-91218[F] dated 03/10/2019)

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