IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2020

CORAM :

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE R. SURESH KUMAR

W.A.Nos.262, 263, 270 and 272 of 2020 &
CMP.Nos.4498,4460, 4406, 4404 of 2020

M/s. Murugan & Co.,
represented by its Partner
P.A.Sankar,
No.74, Odiampet Road,
Kanuvapet, Villianur,
Puducherry 605 110 ... Appellant in all Writ Appeals

-vs-

1. The Union of India,
Represented 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 Writ Appeals

Writ Appeals filed under Clause 15 of the Letters Patent against the order passed by His Lordship Hon'ble Mr.Justice K.Ravichandrabaabu in W.P.Nos.15165, 15166, 15167 & 15168 of 2018 dated 12.11.2019 respectively .

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records pertaining to the Notice dated 29/01/2016 vide Ref.34210000008/CTO-I/2011-2012, 34210000008/CTO-I/2012-13, 34210000008/CTO-I/2013-14 and 34210000008/CTO-I/2014-2015 respectively and consequential notice dated 23/06/2017 vide Ref:34210000008/CTO-I/A1/2011-12, 34210000008/CTO-I/A1/2012-13, 34210000008/CTO-I/A1/2013-14, and 34210000008/CTO-I/A1/2014-15, respectively and Pre- assessment notice dated 28/05/2018 vide Ref;34210000008/CTO-I/2011-12,34210000008/CTO-I/2012-13, 34210000008/CTO-I/2013-14, and 34210000008/CTO-I/2014-15, respectively issued by the Second respondent pertaining to the year 2011-2012, 2012-2013, 2013-2014 and 2014-2015 respectively and quash the same as null and void.

For Appellant in all appeals : Mr.R. Sreedhar

For Respondents in all appeals : Mrs.N.Mala, Spl.Govt.Pleader

COMMON ORDER

[Order of the Court was made by DR.VINEET KOTHARI,J.]

The petitioner/assessee M/s. Murugan & Co., has filed these intra court appeals aggrieved by the order dated 12.11.2019, passed by the learned Single Judge, dismissing the Writ Petitions, which according to the learned Single Judge, were directed only against the summons/pre-assessment notices dated 28.5.2018, pertaining to the years 2011-12, 2012-13, 2013-14 and 2014-15 and therefore with a liberty to the petitioner to raise all his objections to the learned assessing authority, the writ petitions were dismissed.

2. The relevant observations in paragraph 21 and 22 of the order impugned read as follows;

> '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 order of assessment on merits and in accordance with law within a period of six weeks thereafter. No costs. '

3. Learned counsel for the petitioner/assessee has urged before this Court that as per Section 24(5) of the Pondicherry Value Added Tax Act, no assessment could be made beyond the period of three years and therefore the summons/pre-assessment notice is bad in law and deserves to be interfered with by the writ court.

4. Having heard the learned counsel for the appellant, we are satisfied that the writ petitions filed by the petitioner are premature and have been rightly dismissed by the learned Single Judge. The objections with regard to the limitation and other objections, if any, were required to be filed before the learned assessing authority himself and in that event, the assessing authority, would have record his findings on such objections during the course of assessment proceedings. The learned counsel for the petitioner has ill advised the petitioner to prefer these writ petitions.

5. We are of the opinion that the learned Single Judge has rightly dismissed the writ petitions with liberty to raise the objections before the assessing authority and relegated the assessing authority to decide the issue after affording an opportunity of personal hearing on the objections raised . Therefore, we find no error in the order passed by the learned Single Judge, as there is no merits . The Writ Appeals deserve to be dismissed and accordingly, they are dismissed. No costs. Consequently, connected CMP.Nos.4498,4460, 4406, 4404 of 2020 are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

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

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

+1cc to the Government Pleader Sr.20381
+1cc to Mr.R.Sreedhar, Advocate Sr.20148

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kk[co]
srg 09/07/2020