IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2020

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 37813 of 2006

M/s. Sivasubramania Textiles,
Represented by Mr.C.V.Ramamoorthy, Partner,
SF No. 245/1, Avinashi Road,
Chinniampalayam,
Coimbatore District. ...Petitioner

-vs-

The Commercial Tax Officer,
Central-II Assessment Circle,
Tirupur,
Coimbatore District. ...Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records of the Respondent in TNGST No. 2460079/2001-02, quash the order dated 31.07.2003.

For Petitioner : No appearance
For Respondent : Mr. A.N.R.Jayaprathap,
Government Advocate (Taxes)

O R D E R
(through video conference)

There is no representation for the Petitioner when the matter is called at 11.14 a.m.

2. Heard Mr. A.N.R.Jayaprathap, Learned Government Advocate (Taxes) appearing for the Respondent and perused the materials placed on record, apart from the pleadings of the parties.

3. The Respondent passed the Orders in TNGST No. 2460079/2001.2002 dated 31.07.2003 for the assessment year 2001-2002 determining the liability under the Tamil Nadu General Sales Tax Act, 1959 (hereinafter referred to as 'the TNGST Act' for short) in respect of the Petitioner, who received the copy of the order on 13.08.2003. The Petitioner was entitled to

prefer appeal against those orders under Section 31 of TNGST Act, within a period of 30 days from the date of their receipt before the Appellate Authority, who has been empowered to condone delay in filing such appeal for an extended period of 30 days, if sufficient cause for not preferring appeal within that period is made out. However, the Petitioner did not prefer any such appeal before the Appellate Authority, but has instead filed this Writ Petition on 29.09.2006 challenging the order passed by the First Respondent beyond the maximum limitation period of 60 days from the date of receipt of copy of that order.

4. The Hon'ble Supreme Court of India in Assistant Commissioner (CT) LTU, Kakinada -vs- Glaxo Smith Kline Consumer Health Care Limited (Order dated 06.05.2020 in Civil Appeal No. 2413 of 2020) has emphatically laid down that the High Court in the exercise of powers under Article 226 of the Constitution of India ought not to entertain Writ Petition assailing the order passed by a Statutory Authority which was not appealed against within the maximum period of limitation before the concerned Appellate Authority. Having regard to that legal position, it is not possible for this Court to express any view on the correctness or otherwise on the merits of the controversy involved in the matter.

5. In the result, the Writ Petition, which cannot be entertained, is dismissed. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

vjt

To

The Commercial Tax Officer,
Central-II Assessment Circle,
Tirupur,
Coimbatore District.

+1cc to Government Pleader, SR.No.37949

W.P. No. 37813 of 2006

SJ(CO)
KKV/03/12/2020