IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2020

CORAM

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

W.P. No. 25448 of 2015
and
M.P. No. 1 of 2015

M/s. Sun Aluminium Glass and Plywood,
Rep. by its Proprietor,
No. 101/6, Mudichur Road,
West Tambaram,
Chennai - 600 045. ...Petitioner

-vs-

Commercial Tax Officer,
Thirumudivakkam Assessment Circle,
Chennai - 600 044. ...Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the Respondent in his proceedings in TIN No. 33160885856/2012-13 dated 13.03.2015 and quash the order passed therein and to direct the Respondent to pass revised orders pursuant to the amended provisions of Section 3(4) of the TNVAT Act, 2006 as per G.O.Ms.No. 135 dated 31.10.2011 read with amended Act 27 of 2011 and provide an opportunity of personal hearing under compounding scheme.

For Petitioner : Mr. C. Baktha Siromoni

For Respondent : Mrs. G. Dhana Madhri
Government Advocate (Taxes)

O R D E R
(through video conference)

Heard Mr. C. Baktha Siromoni, Learned Counsel for the Petitioner and Mrs. G. Dhana Madhri, Learned Government Advocate (Taxes) appearing for the Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Respondent passed the Order No. TIN : 33160885856/2012-13 dated 13.03.2015 for the year 2012-2013 under the Tamil Nadu Value Added Tax Act, 2006 (hereinafter referred to as the 'TNVAT Act' for short) in respect of the Petitioner, who had received the copy of the order on 17.03.2015. The Petitioner was entitled to prefer appeal against that order under Section 51 of TNVAT Act, within a period of 30 days from the date of its 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 14.08.2015 challenging the order passed by the Respondent beyond the maximum limitation period of 60 days from the date of receipt of copy of that order.

3. 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.

4. In the result, the Writ Petition, which cannot be entertained, is dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

kv

To

The Commercial Tax Officer,
Thirumudivakkam Assessment Circle,
Chennai - 600 044.

Copy to

M/s. Sun Aluminium Glass and Plywood,
Rep. by its Proprietor,
No. 101/6, Mudichur Road,
West Tambaram,
Chennai - 600 045.

+1cc to M/s. Special Government Pleader(Taxes), SR.No. 38778

W.P. No. 25448 of 2015

BP(CO)
RN(09/12/2020)