IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2020

CORAM

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

W.P.NO.1931 OF 2016
AND
W.M.P.NO.1688 OF 2016

M/s.Udhayam Agro,
Rep.by its Proprietor,
M.Maha Kumar,
No.2/247, Kadai Theru,
Alathambadi,
Tiruvarur District - 610 211. ... Petitioner

-vs-

The Deputy Commercial Tax Officer (Main),
Thiruthuraipoondi Assessment Circle,
Thiruthuraipoondi,
Tiruvarur District. ... Respondent

Prayer:-
Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the Respondent in TIN No.33633882267/2013 - 2014 dated 14.07.2015 and quash the same as illegal, arbitrary, against the provisions of the Act and against the principles of natural justice.

For Petitioner : Mr.K.Soundararajan

For Respondent : Mr.Mohammed Shaffiq
Special Government Pleader

O R D E R
(through video conference)

Heard Mr.K.Soundararajan, Learned Counsel for the Petitioner and Mr.Mohammed Shaffiq, Learned Special Government Pleader 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 No.33633882267/2013 - 2014 dated 14.07.2015 for the year 2013-2014 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 23.09.2015. 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 19.01.2016 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(CS III)

//True Copy//

Sub Assistant Registrar

dm
To

The Deputy Commercial Tax Officer (Main),
Thiruthuraipoondi Assessment Circle,
Thiruthuraipoondi, Tiruvarur District.

+1cc to Mr.K.Soundararajan, Advocate, S.R.No.39228
+1cc to the Special Government Pleader, S.R.No.39190

W.P.No.1931 of 2016

LN(CO)
CS/10/12/2020