IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2020

CORAM

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

W.P. Nos. 34801 to 34803 of 2015
and
M.P. Nos. 1, 1 and of 2015

Gemini Communications Limited,
Rep. by its Authorised Signatory,
Mr. K. Radhakrishnan,
No. 1, Dr. Ranga Road, 2nd Street,
Alwarpet, Chennai - 600 018. ...Petitioner in all WPs

-vs-

The Assistant Commissioner (CT)
Commercial Taxes Department,
Mandaveli Assessment Circle,
46, Greenways Road, Chennai - 600 028.
...Respondent in all WPs

Common Prayer:- Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records culminating in the impugned orders dated 23.04.2014 with Ref. Nos. TIN/33050760835/2011-2012, TIN/33050760835/2010-2011 and TIN 33050760835/2012-2013 respectively passed by the Respondent and quash the same and direct the Respondent to pass a detailed and reasoned order after considering the submission made by the Petitioner.

For Petitioner in all WPs : Mr. Koushik for Mr. V. Sankaranarayanan

For Respondent in all WPs : Mr. R. Swarnavel Government Advocate

C O M M O N O R D E R
(through video conference)

Heard Mr. Koushik, Learned Counsel for the Petitioner and Mr. R. Swarnavel, Learned Government Advocate appearing for the Respondent and perused the materials placed on record, apart from the pleadings for the parties.

2. The Respondent had passed Orders in TIN Nos. 33050760835/ 2011-2012, 33050760835/2010-2011, 33050760835/2012-2013 dated 23.04.2014 for the years 2011-2012, 2010-2011 and 2012-2013 respectively for the liability of the Petitioner under the Tamil Nadu Value Added Tax Act, 2006. Though the exact date on which those orders were served on the Petitioner has not been made available, it is seen from para 16 of the affidavits filed in support of the Writ Petitions, as pointed out by the Learned Government Advocate appearing for the Respondent, that the Petitioner had sent representations dated 19.07.2014 against those orders to the Principal Secretary/Commissioner of Commercial Taxes, Ezhilagam,Chennai - 600 005, meaning thereby that atleast on that date, the Petitioner had received copy of those said orders. The Petitioner was entitled to prefer appeal against those orders 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 appeals before the Appellate Authority, but has instead filed these Writ Petitions on 27.10.2015 challenging the orders passed by the Respondent beyond the maximum limitation period of 60 days from the date of receipt of copy of those orders.

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, these Writ Petitions, which cannot be entertained, are dismissed. Consequently, the connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

Maya/kv

To

The Assistant Commissioner (CT)
Commercial Taxes Department,
Mandaveli Assessment Circle,
46, Greenways Road, Chennai – 600 028.

+1cc to Special Government Pleader(Taxes), S.R.No.39194
+1cc to Mr.V.Sankaranarayanan, Advocate, SR.NO.38917

W.P. Nos. 34801 to 34803 of 2015

SJ(CO)
KKV/16/12/2020