IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.10.2020

CORAM

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

W.P. No. 39596 of 2015
and
M.P. No. 1 of 2015

PCH Marketing Limited
5-9-1115/a, Kanchanjunga Complex
Gunfoundry Street, No.3, King Koti, Telungana,
Hyderabad - 500 001. ...Petitioner

-vs-

Asst. Commissioner (Commercial Taxes),
Kilpauk Assessment Circle,
35, Halls Road,
Chennai - 600 010. ...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 his proceedings leading to the Demand Notice Vide CST No. 999917 dated 07.07.2015, quash the same.

For Petitioner : Mr. S.Sathiyanarayanan
For Respondent : Mrs. G.Dhana Madhri
Government Advocate (Taxes)

O R D E R
(through video conference)

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

2. The Writ Petition challenges the Notice in CST No. 999917 dated 07.07.2015 issued by the Respondent demanding the payment of sales tax due from the Petitioner for the assessment years 2008-09 to 2011-12 aggregating Rs. 1,13,16,879/-. The grievance sought to be ventilated by the Petitioner in this Writ Petition is that the Assessment Orders for the respective years for which the amount has been claimed in the impugned notice had not been served on the Petitioner.

3. Having regard to the aforesaid contention raised, this Court during the earlier hearing on 05.06.2020 has passed the following self-explanatory order:-

> " Petitioner's Counsel submits that due to Covid-19 (in the instant situation) he is not able to get instructions from the Petitioner. The learned AGP, today, brought files and at page No. 131, it is evident that after passing the assessment orders, such copies have been served to the Petitioner, with regard to this service, the Petitioner's Counsel wants to get instructions from the Petitioner concerned. List this case after four weeks for orders."

4. Learned Counsel for the Petitioner is not in a position to controvert the factual correctness of the submissions made by the Respondents that the assessment orders for the respective years had been served on the Petitioner before issuing the impugned notice demanding arrears of tax due.

5. It is well established principle of law that when the order determining liability has attained finality, the implementation of the consequential recovery must not be stalled. No infirmity has been shown in the impugned notice requiring interference by this Court in the exercise of the discretionary powers of judicial review under Article 226 of the Constitution of India.

In the result, the Writ Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

dm

To

The Asst. Commissioner (Commercial Taxes),
Kilpauk Assessment Circle,
35, Halls Road,
Chennai - 600 010.

+1cc to Special Government Pleader(Taxes), SR.No.32864

W.P. No. 39596 of 2015

SPD(CO)
KKV/04/11/2020