IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.10.2020

CORAM

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

W.P. No. 40486 of 2015
and
M.P. No. 1 of 2015

Tvl.J.S.Contractor,
Represented by its Partner,
N.Masiappan,
No.3/98, A.Sedapatty, Arurpatty (P.O),
Omalur (T.K),
Salem - 636 502. ... Petitioner

-vs-

The Assistant Commissioner (CT),
Omalur Assessment Circle,
Omalur, Salem 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 on the files of the Respondent in TIN.33413244516/2012-13 dated 23.03.2015 and quash the same.

For Petitioner : Mr. R.Senniappan

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

O R D E R
(through video conference)

Heard Mr. R.Senniappan, Learned Counsel for the Petitioner and Mrs. G.Dhana Madhiri, 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 by Order in TIN No. 33413244516 / 2012-13 dated 23.03.2015 had determined the liability for the year 2012-13 under the Tamil Nadu Value Added Tax Act, 2006 (hereinafter referred to as 'the TNVAT Act' for short) in respect of the Petitioner, who received the copy of that order

on 08.05.2015. 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 18.12.2015 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.

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

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To

The Assistant Commissioner (CT),
Omalur Assessment Circle,
Omalur, Salem District.

+1 CC to The Special Government Pleader sr 34145.

W.P. No. 40486 of 2015

RLD(CO)
SP(04/11/2020)