IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2020

CORAM

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

W.P. No. 5037 of 2015
and
M.P. No. 1 of 2015

M/s. V3 Power Petro Fabricators Private Limited,
Rep. by its Director,
52/26, 48th Street, 9th Avenue,
Ashok Nagar,
Chennai - 600 083. ... Petitioner

-vs-

1. The State of Tamil Nadu,
   Rep. by its Secretary,
   Commercial Taxes Department,,
   Fort St. George,
   Chennai - 600 009.

2. The Assistant Commissioner (CT),
   Kodambakkam Assessment Circle,
   Chennai - 600 006.

3. The Assistant Commissioner (CT),
   Saligramam Asst Circle,
   Chennai - 600 083. ... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the Second Respondent in TIN:33911423454/2013-2014 and quash the order dated 28.11.2014 passed therein and further direct the Second Respondent not to apply Sec. 2(1) of the Tamil Nadu Value Added Tax (Fifth Amendment) Act, 2013, to the Petitioner herein inasmuch as the Petitioner is a manufacturer of goods in the State of Tamil Nadu.

For Petitioner : Mr. P.Rajkumar

For Respondents: Mr. A.N.R.Jayaprathap,
Government Advocate (Taxes)

O R D E R
(through video conference)

Heard Mr. P.Rajkumar, Learned Counsel for the Petitioner and Mr. A.N.R.Jayaprathap, Learned Government Advocate (Taxes) appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Second Respondent passed the Order No. TIN : 33911423454/ 2013-14 dated 28.11.2014 for the assessment year 2013-2014 determining the liability 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 10.12.2014. 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 24.02.2015 challenging the order passed by the First 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

vjt

To

1. The Secretary to the Government of Tamil Nadu,
   Commercial Taxes Department,,
   Fort St. George,
   Chennai - 600 009.

2. The Assistant Commissioner (CT),
   Kodambakkam Assessment Circle,
   Chennai - 600 006.

3. The Assistant Commissioner (CT),
   Saligramam Asst Circle,
   Chennai - 600 083.

Copy to

M/s. V3 Power Petro Fabricators Private Limited,
Rep. by its Director,
52/26, 48th Street, 9th Avenue,
Ashok Nagar,
Chennai - 600 083.

+1cc to The Special Government Pleader9taxex) , sr no.38052

W.P. No. 5037 of 2015

LN(CO)
RMP(03/12/2020)