IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2020

CORAM

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

W.P. No. 7824 of 2015
and
M.P. No. 2 of 2015

M/s.Propel Valves Private Ltd.,
Represented by its Director,
No.79, V.V.Koil Street,
Thiruvalleeswarar Nagar,
Thirumangalam,
Anna Nagar West,
Chennai - 600040. ...Petitioner

-vs-

1.The Commercial Tax Officer,
Koyambedu Assessment Circle,
Chennai - 600 107.

2.M/s.Process Technologies
Represented by its Proprietor,
H.No.6-3-788/A/43, 2nd Floor,
Durga Nagar,
Ameerpet,
Hyderbad. ... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the impugned proceedings of the First Respondent in CST.798651/2012-2013 dated 07.01.2014 and 30.09.2014 and the consequential Notice dated 30.01.2015 and to quash the same and further direct the First Respondent to grant the Petitioner sufficient time to obtain C declaration forms for a value of Rs. 81,18,590/- from the Second Respondent herein against whom a Suit has been filed by the Petitioner in the City Civil Court at Hyderabad for a direction to issue 'C' Forms.

For Petitioner : Mr. P.Rajkumar

For Respondents : Mrs. G.Dhanamadhri (For R1)
Government Advocate (Taxes)

No Appearance (For R2)

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O R D E R

(through video conference)

Heard Mr. P.Rajkumar, Learned Counsel for the Petitioner and Mrs. G.Dhanamadhri, Learned Government Advocate (Taxes) and perused the materials placed on record, apart from the pleadings of the parties.

2. The First Respondent passed the order in CST.798651/2012-2013 dated 07.01.2014 for the year 2012-2013 determining the liability of the Petitioner under the Tamil Nadu Value Added Tax Act, 2006 (hereinafter referred to as the 'TNVAT Act' for short), the receipt of which is not disputed. 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 17.03.2015 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. Since the order determining the liability of the Petitioner for the assessment year 2012-2013 has attained finality, the consequential order for recovery in the impugned notice dated 30.01.2015 cannot be stalled.

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

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

dm

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To

1.The Commercial Tax Officer,
Koyambedu Assessment Circle,
Chennai - 600 107.

+1cc to Special Government Pleader(Taxes), S.R.No 38058

W.P. No. 7824 of 2015

AJS(CO)
RN(11/12/2020)

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