IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.02.2020

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P. No. 37620 of 2016
and
W.M.P. No. 32255 of 2016

M/s.Santhi Agencies
Represented by its Proprietrix
R.Santhi
62, Elankupan Street,
Arcot. ... Petitioner

Vs

The Commercial Tax Officer,
Arcot. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, call for the records of the Respondent herein in TIN No.33524580679/2007-2008 and quash the order dated 29.08.2016.

For Petitioner : Ms. Hema Muralikrishnan
Senior Standing Counsel

For Respondent : Ms. G. Dhanamadhri
Government Advocate

ORDER

The Petitioner has challenged the Impugned Order passed by the Respondent on 29.08.2016 on the ground that the Order has been passed beyond the six years period of limitation prescribed under Section 27(2) of the Tamil Nadu Value Added Tax Act, 2006 (herein after the TNVAT Act, 2006).

2. In the Counter, the Respondent has categorically stated that a Revision Notice dated 31.12.2009 was served on the Petitioner and duly acknowledged by an employee of the

Petitioner.

3. The learned counsel for the Petitioner submits that the Order was served on the Manager of the Petitioner and therefore service of such notice is not in terms of the Provisions of the TNVAT Rules, 2007.

4. I have considered the arguments advanced on behalf of the learned Senior Standing Counsel for the Petitioner and the learned Government Advocate for the Respondent.

5. The Revision Notice has been served on the Petitioner and has been duly acknowledged by one D.Parthasarathy for the Petitioner. Thus it is not open for the Petitioner to allege that the Revision Notice has been served on them beyond the period of limitation.

6. It is noticed that the invoices on which credit was availed were fictitious. To that effect, the suppliers had also confirmed the same to the Department vide their letter dated "11.02.2009" and by another letter dated "15.02.2009" as was evident from the official records of the Respondent which was produced for my perusal in Court. However, the copies of these letters have not been furnished to the Petitioner to give a reply.

7. The Order has been passed without following the Principles of Natural Justice. The Petitioner has also failed to participate in the proceedings. I am inclined to remit the case back to the Respondent to pass a fresh order. The copies of two letters, based on which, the Revision Notice dated 31.12.2009 came to be issued along with the said notice may be furnished to the Petitioner within a period of fifteen days from the date of receipt of this Order.

8. The Petitioner shall thereafter file objections, if any, within a period of thirty days thereafter.

9. Since, the dispute pertains to the Assessment Year 2007-2008, the Respondent is requested to pass appropriate orders, within a period of three months from the date of receipt of a copy of this order. It is needless to state that the Petitioner shall be heard before any orders are passed.

10. The Writ Petition stands disposed accordingly. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

-s/d-
Assistant Registrar

True Copy
Sub-Assistant Registrar

To
1.The Commercial Tax Officer
Arcot

+1 cc to Mr.L.Muralikrishnan Advocate sr14727
+1 cc to Special Government Pleade taxes sr15059

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aa08/06/2020