IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.10.2020

CORAM

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

W.P. No. 17735 of 2018
and
W.M.P. No. 21006 of 2018

Tvl. Balaji Agency
Represented by its Proprietor
Thiru. G.Sivasubramanian
No.52, Rathina Mudali Street
Kurinjipadi, Cuddalore Taluk. ...Petitioner

-vs-

The Assistant Commissioner (CT)
Cuddalore Taluk
Commercial Taxes Buildings
Cuddalore 607 001. ...Respondent

Prayer:- Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records in respect of the impugned order TIN 33384400336/2010-11 dated 03.04.2018 of the Respondent passed under the Tamil Nadu Value Added Tax Act, 2006, quash the same.

For Petitioner : Mr. S.P.Asokan
For Respondent : Mr. R.Swarnavel
Government Advocate (Taxes)

O R D E R
(through video conference)

Heard Mr. S.P.Asokan, Learned Counsel for the Petitioner and Mr. R.Swarnavel, 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 passed the order in TIN 33384400336/2010-11 dated 03.04.2018 for the assessment year 2011-2012 under the Tamil Nadu Value Added Tax Act, 2006 (hereinafter referred to as 'the Act' for short) in respect of the Petitioner, who had received copy of that order on 01.05.2018. 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 10.07.2018 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.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

Maya/kv

To

The Assistant Commissioner (CT)
Cuddalore Taluk
Commercial Taxes Buildings
Cuddalore 607 001.

+1cc to Special Government Pleader(Taxes), SR.No.34720

W.P. No. 17735 of 2018

NRL(CO)
KKV/04/11/2020