IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2020

CORAM

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

W.P. No. 14712 of 2012
and
M.P. No. 1 of 2012

M/s. Antony Associates Pvt. Ltd.
(Now M/s. Antony Projects Pvt Ltd)
Represented by its Managing Director
Old No.10, New No.66, Harleys Road
Kilpauk, Chennai - 600 010. ...Petitioner

-vs-

The Commercial Tax Officer,
Kilpauk Assessment Circle,
35, Halls Road
Kilpauk, Chennai - 600 010. ...Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the impugned proceeding of the Respondent in TIN 33421122199/2007-2008 and quash the impugned order dated 30.08.2011 as the reversal of Input Tax Credit on capital goods and the levy of interest for the period from 20.03.2008 to 16.08.2011 are contrary to the provisions of the TNVAT Act and without authority of law and also against the law laid down by the Hon'ble Supreme Court in the case of M/s.EID Parry India Ltd reported in 141 STC 12.

For Petitioner Mr. P.Rajkumar
For Respondent Mr. R.Swarnavel
Government Advocate

O R D E R
(through video conference)

Heard Mr. P.Rajkumar, Learned Counsel for the Petitioner and Mr. R.Swarnavel, Learned Government Advocate appearing for the Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Respondent passed the Order No. TIN : 33421122199/2007-08 dated 30.08.2011 for the assessment year 2007-2008 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 12.09.2011. 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 08.06.2012 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.

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(CS III)

//True Copy//

Sub Assistant Registrar

Maya

To

The Commercial Tax Officer,
Kilpauk Assessment Circle,
35, Halls Road
Kilpauk, Chennai - 600 010.

+1cc to the Special Government Pleader(Taxes) SR.No.41204

W.P. No. 14712 of 2012

SS(CO)
KKV/21/12/2020