IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 07.12.2020
CORAM
THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU
W.P. No. 20953 of 2017
and
W.M.P. Nos. 21843 of 2017

M/s. Sree Sai Baba Timber
Rep. by its Authorised Signatory
No.5, Anjuman Street
Gopalapuram
Gudiyatham - 632 602.

... Petitioner

-vs-

Deputy Commercial Tax Officer (Main)
Gudiyatham (East) Assessment Circle
Gudiyatham.

... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the Respondent and to quash the assessment proceedings in TIN No. 33036320401/2015-16 dated 30.01.2017 as illegal and direct the respondent to furnish the details of informations obtained from the departmental WEBSITE for the alleged mismatch purchases of the petitioner based on the recent decision of the batch cases of the Madras High Court in W.P. No. 105/2016 and other relating to M/s. JKM Graphics Solutions Pvt Limited & Others Vs. Commercial Tax Officer, Vepery Assessment Circle and Others dated 01.03.2017 after providing an opportunity of personal hearing to the Petitioner.

For Petitioner : Mr. C.Baktha Sironmoni

For Respondent : Mrs. G.Dhana Madhri
Government Advocate

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O R D E R
(through video conference)

Heard Mr. C.Baktha Sironmoni, Learned Counsel for the Petitioner and Mrs. G.Dhana Madhri, 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 : 33036320401/2015-2016 dated 30.01.2017 for the year 2015-2016 under the Tamil Nadu Value Added Tax Act, 2006 (hereinafter

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referred to as the 'TNVAT Act' for short) in respect of the Petitioner to whom the copy of that order was served on 03.02.2017. 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 03.08.2017 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 IX)

//True Copy//

Sub Assistant Registrar

To

Deputy Commercial Tax Officer (Main)
Gudiyatham (East) Assessment Circle
Gudiyatham.

+1cc to the Spl Government Pleader,(Taxes) S.R.No.39468

W.P. No. 20953 of 2017

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