IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 07.12.2020
CORAM
THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU
W.P. Nos. 19848 to 19853 of 2017
and
W.M.P. Nos. 21427, 21429, 21431, 21433, 21435 and 21437 of 2017

M/s. Vivin Tex
Represented its Proprietorix - Mrs. G.Vijayakumari
No.51, Elango Nagar
Fourth Cross Street
P.N. Road, Tirupur-2
Tirupur District.

... Petitioner in all W.P.s

-vs-

1. Authority for Clarification & Advance Ruling
Office of the Commissioner of Commercial Taxes
Ezhilagam, Chepauk
Chennai - 600 005.

2. Assistant Commissioner (CT) (FAC)
Tirupur South Circle
Tirupur District.

... Respondents in all W.P.s

Prayer in W.P. No. 19848 of 2017:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records on the file of the Second Respondent vide impugned proceedings made in TIN 33712324015/2010-2011 dated 28.11.2016 quash the same as illegal and contrary to the scheme of the Act.

Prayer in W.P. No. 19849 of 2017:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records on the file of the Second Respondent vide impugned proceedings made in TIN 33712324015/2011-2012 dated 28.11.2016 quash the same as illegal and contrary to the scheme of the Act.

Prayer in W.P. No. 19850 of 2017:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records on the file of the Second Respondent vide impugned proceedings made in TIN 33712324015/2012-2013 dated 28.11.2016 quash the same as illegal and contrary to the scheme of the Act.

Prayer in W.P. No. 19851 of 2017:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records on the file of the Second Respondent vide impugned proceedings made in TIN 33712324015/2013-2014 dated 28.11.2016 quash the same as illegal and contrary to the scheme of the Act.

Prayer in W.P. No. 19852 of 2017:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records on the file of the Second Respondent vide impugned proceedings made in TIN 33712324015/2014-2015 dated 28.11.2016 quash the same as illegal and contrary to the scheme of the Act.

Prayer in W.P. No. 19853 of 2017:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records on the file of the Second Respondent vide impugned proceedings made in TIN 33712324015/2015-2016 dated 28.11.2016 quash the same as illegal and contrary to the scheme of the Act.

For Petitioner : Mr. S.Rajasekar (in all W.P.s)

For Respondents : Mr. A.N.R.Jayaprathap, Government Advocate (Taxes) (in all W.P.s)

COMMON ORDER
(through video conference)

Heard Mr. S.Rajasekar, Learned Counsel for the Petitioner and Mr. A.N.R.Jayaprathap, Learned Government Advocate (Taxes) appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Second Respondent passed the Order No. TIN: 33712324015/2010-11, Order No. TIN: 33712324015/2011-12, Order No. TIN: 33712324015/ 2012-13, Order No. TIN: 33712324015/2013-14, Order No. TIN: 33712324015/2014-15 and Order No. TIN: 33712324015/2015-16 dated 28.11.2016 for the years 2010-2011 to 2015-2016 under the Tamil Nadu Value Added Tax Act, 2006 (hereinafter referred to as the 'TNVAT Act' for short) in respect of the Petitioner to whom the copy of the orders had been despatched through Registered Post on 30.11.2016 and the receipt of which is accepted by the Learned Counsel for the Petitioner. The Petitioner was entitled to prefer appeal against those orders 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 these Writ Petitions on 01.08.2017 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 Petitions, which cannot be entertained, are dismissed. Consequently, the connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

1. The Commissioner of Commercial Taxes
Authority for Clarification & Advance Ruling
Ezhilagam, Chepauk
Chennai - 600 005.

2. Assistant Commissioner (CT) (FAC)
Tirupur South Circle
Tirupur District.

+1cc to Mr.R.Hemalatha, Advocate, S.R.No.39443

+1cc to the Spl Government Pleader,(Taxes) S.R.No.39469

W.P. Nos. 19848 to 19853 of 2017

NMI(CO)
GSP(18/12/2020)