IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2020

CORAM

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

W.P. No. 23986 of 2016

M/s. Vairam Steels
represented by its Proprietor
S.Saida Banu
No.39/18, Sembudoss Street
Chennai - 600 001. ...Petitioner

-vs-

The Assistant Commissioner (Commercial Tax) (FAC),
Harbour III Assessment Circle,
Chennai - 600 001. ...Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records comprised in revised assessment order as made in TIN/33800041119/2008-09 dated 22.05.2014 on the file of the Respondent, reversing the input tax credit allowed for the assessment year 2008-09 and levying input tax credit to the tune of Rs.6,67,873/- and quash the same.

For Petitioner : Mr. R.Bharanidharan
for M/s.R.Karthikeyan
For Respondent : Mrs. G.Dhana Madhiri
Government Advocate (Taxes)

O R D E R
(through video conference)

Heard Mr. R.Bharanidharan, Learned Counsel for the Petitioner and Mrs. G.Dhana Madhiri, Learned Government Advocate (Taxes), and perused the materials placed on record, apart from the pleadings of the parties.

2. The Respondent by Order No. TIN / 33800041119 / 2008-09 dated 22.05.2014 had determined the liability for the year 2008-09 under the Tamil Nadu Value Added Tax Act, 2006 (hereinafter referred to as 'the TNVAT Act' for short) in respect of the Petitioner, who received the copy of that order on 29.05.2014.

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 03.09.2014 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.

-s/d-
Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

msm

To

1.The Assistant Commissioner, (Commercial Tax) FAC,
Harbour III Assessment Circle, Chennai - 1

+1cc to Special Government Pleader(Taxes),SR.No.33122

W.P. No. 23986 of 2014

VBA(CO)
KKV/03/12/2020