.BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 30.07.2020

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD).No.1755 of 2020
and
W.M.P.(MD).No.1478 of 2020

Tvl.Max Properties Private Limited,
represented by its Director S.S.Ramakrishna ...Petitioner

Vs.

The State Tax Officer,
West Veli Street Assessement Circle,
Madurai. ...Respondent

PRAYER: Writ petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the records of the respondent in TIN 33615023580/2010-11 dated 06.11.2019 and quash the same as arbitrary, illegal and in violation of the principles of natural justice, without jurisdiction and barred by limitation as prescribed under Section 27 (2) of the Tamil Nadu Value Added Tax 2006.

For Petitioner : Mr.S.Karunakar
For Respondent : Mrs.J.Padmavathi Devi
Special Government Pleader

ORDER

Heard the learned counsel appearing for the writ petitioner and the learned Special Government Pleader appearing for the respondent.

2. The petitioner is a Builder and an assessee with the respondent. The case on hand pertains to the assessment order 2010-2011. The petitioner is deemed to have been assessed as on 30.06.2012. The stand of the respondent is that the surprise inspection held in the business premises of the petitioner revealed certain suppressions. Therefore, alleging that there was an escaped turnover, the respondent proceeded to issue notice on 28.08.2018 and after getting the objections from the petitioner passed the impugned order on 06.11.2019. The same is put to challenge in this Writ Petition. The primary ground taken by the writ petitioner is that as per Section 27 (1) (a) of the Tamil Nadu Value Added Tax Act, 2006, if the Authority is of the view that any part of the turnover of business of the petitioner had escaped assessment to tax, the

Assessing Authority ought to have determined to the best of its judgment, the turnover of his escaped assesment and assess the tax payable on such turnover. But then, this exercise should have been done within the period of limitation spelt out in the relevant portion. The petitioner's counsel would initially contend that during the relevant time five years was the period of limitation. But even without going into that aspect, even if I assume that six years is the limitation period, still it is seen that the pre-revision notice was issued only on 28.08.2018. The cut off date in this case was 30th June 2012. The six year period expired on 30.06.2018. The notice under Section 27 (1) (a) of the Act came to be issued only after the expiry of the limitation period.

3. The stand of the learned Special Government Pleader is that since the surprise inspection took place in the year 2016, this Court ought not to compute the limitation period from 30.06.2012. I am not able to agree. Even according to the respondent, the inspection took place in the year 2015; nothing stopped the respondent from taking action for assessing the escaped turnover immediately thereafter. Even if the respondent had taken action in the year 2016-2017 that would have been within the limitation period. Not having done so, the issuance of notice on 28.08.2018 after the expiry of six years limitation period, in my view is not justifiable. In this view of the matter, the impugned proceedings in this Writ Petition stands quashed only on the ground of limitation.

4. This Writ Petition stands allowed accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

tsg

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The State Tax Officer,
West Veli Street Assessment Circle,Madurai.
+1 CC to M/s.S. KARUNAKAR, Advocate (SR-13389[F] dated 31/07/2020)

ORDER MADE IN
W.P.(MD).No.1755 of 2020
30.07.2020

SMA/06/08/2020/2P/3C