IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2021

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.27453 of 2008
and
M.P.No.1 of 2008

Sakthi Sugars Limited,
Sakthi Nagar 638 315,
Bhavani Taluk, Erode District,
Represented by its Senior General Manager,
(Accounts and Taxation)
Mr.P.Sankararaja Pandian. ...Petitioner

Vs.

1. The Deputy Commissioner (CT), FTAC 1
   Commercial Taxes Department,
   Dr.Balasundaram Road,
   Coimbatore – 641 018.

2. State of Tamil Nadu,
   Represented by Secretary to the Government,
   Department of Commercial Taxes and
   Religious Endowments,
   Fort.St.George,
   Chennai – 600 009. ...Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, calling for the records in Proceedings No.TNGST 1880113/89-90 to 92-93 dated 30.09.2008 on the file of the 1st respondent and quash the same.

For Petitioner : Mr.AL.Somayaji
Senior Counsel
Assisted by Mr.M.P.Senthilkumar

For Respondents : Mr.V.Veluchamy
Government Advocate

ORDER

The writs on hand is filed, questioning the validity of the intimation letter issued by the 1st respondent on 30.09.2008. The learned counsel for the petitioner made a submission that the intimation letter lasts its statutory sanctity, in view of the fact that the interest amount sought to be claimed from the petitioner is with reference to the years from 1989-90 to 1992-93. In view of the fact that the intimation itself is highly belated, the petitioner has chosen to challenge the same on the ground that the very claim is futile.

2. This Court is of the considered opinion that the adjudication on merits may not be required in this case as the intimation given in the impugned proceeding is related to the purchase tax dues allegedly paid belatedly by the petitioner for the years from 1989-90 to 1992-93 under the Tamil Nadu General Sales Tax Act. [in short 'TNGST Act']

3. This Court is of the considered opinion that any action under the Statute is expected to be initiated within a reasonable period of time. Even in the absence of any time limit prescribed, the Courts have taken consistent view that lapsed/settled matters cannot be reopened after the prolonged period, which would affect the rights of the other parties. In the instant case, the tax due claimed is of the years 1989-90 to 1992-93. The petitioner was under the impression that they have settled the tax dues and completed the return formalities. After a lapse of 15 years from 1993, the impugned intimation is given, stating that the 1st respondent has proposed to levy interest on the purchase tax paid from the year 1989-90. Except the figures in numbers, no other details are provided. The order, to some extent, is cryptic and therefore, one cannot expect the petitioner to reply properly, as after the lapse of many years in case of purchase tax paid in the year 1989-90, if an intimation letter is given levying interest in the year 2008, the lapse is about 18 years. This apart, the learned counsel for the petitioner made a submission that the purchase tax was paid during the year 2007 in entirety. Even thereafter, no action was taken by the department levying any interest. At the first instance, the impugned intimation was given after a lapse of 15 years from the year 1993. This being the admitted fact, this Court is of the considered opinion that such notice cannot be allowed to be proceeded as the same would cause not only prejudice but such belated actions are unlawful.

4. The respondents/Commercial Tax Department is bound to look into the case for administrative delay in initiating steps to claim interest and identify lapses, negligence and dereliction of duties on the part of the officials and initiate

all necessary action under the Rules on force. The officials, who caused revenue loss to the State, must be held accountable and liable.

5. This being the factum, the impugned intimation letter is not in consonance with the established principles and accordingly, the impugned intimation letter in Proceedings No.TNGST 1880113/89-90 to 92-93 dated 30.09.2008 is quashed. Accordingly, the Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

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To

1. The Deputy Commissioner (CT), FTAC 1
   Commercial Taxes Department,
   Dr.Balasundaram Road,
   Coimbatore – 641 018.

2. The Secretary to the Government,
   Department of Commercial Taxes and
   Religious Endowments,
   Fort.St.George,
   Chennai – 600 009.

+1cc to M/s.G.Baskar, Advocate, S.R.No.37190
+1cc to the Special Government Pleader (T), S.R.No.37426

W.P.No.27453 of 2008

PVS(CO)
RGA(31/08/2021)