IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.09.2021

CORAM

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.A.Nos.2430, 2431, 2440, 2414 & 2417 of 2021
and
C.M.P.Nos.15443, 15470, 15563, 15568 and 15624 of 2021

Tvl.Bildon Steels (India) Limited,
Rep., by its Director,
Mr.Muhammed Rasheed P.K.,
SF 220/1, 2, 3, 215/1B, Kannur Village,
Chinna Kannur (P.O),
Cheyur (Via), Avinashi.
.. Appellant in all Appeals/Petitioner

-vs-

1. The Assistant Commissioner (CT),
   Avinashi Assessment Circle,
   Avinashi.

2. The Principal Secretary/Commissioner of
   Commercial Taxes, Ezhilagam,
   Chepauk, Chennai-600 005.
.. Respondents in all Appeals/Respondent

Appeals under Clause 15 of Letters Patent against the orders dated 06.10.2020 in W.P.Nos.21213, 21214, 21215, 21212 and 21216 of 2014 and set aside the same.

Prayers in W.P.Nos.21213, 21214, 21215,21212 and 21216 of 2014 :
These Writ Petitions filed under Article 226 of the Constitution of India, praying to issue a Writ of certiorari, call for the records on the files of the second respondent herein in VAT Cell/Roc.No./37188/2011 (Circular No.22/2011)dated 20.10.2011 and connected proceedings of the 1st respondent in TIN No.33572083920/2010-11, 2011-12, 2012-13, 2009-10 and 2013-14 respectively dated 30.6.2014.

For Appellant : Mr.R.Senniappan
(In all Appeals)

For Respondents : Mr.M.Venkateswaran
(In all Appeals) Government Counsel

COMMON JUDGMENT
(Delivered by T.S.Sivagnanam, J.)

These writ appeals have been filed by the writ petitioner challenging the orders dated 06.10.2020, dismissing the writ petitions filed by the appellant challenging the assessment orders passed by the first respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (hereinafter referred to as "the TNVAT Act") for the assessment years 2009-10 to 2013-14.

2.We find from paragraph 3 of the impugned orders that the writ petitions were dismissed as withdrawn granting liberty to the appellant to file statutory appeals before the Appellate Authority making it clear that for the purpose of reckoning limitation for availing the remedy, the period of date of filing the writ petitions, i.e., 04.08.2014 till the date on which the certified copy of the orders is made ready by the Registry, should be excluded. The appeal papers were presented by the appellant before the Appellate Deputy Commissioner (ST), Coimbatore on 08.02.2021, but the same have been returned on the very same day on the ground that it is barred by limitation, since the Court has only excluded the period from 04.08.2014 till the date of receipt of the certified copy of the orders. Admittedly, the appellant did not present the appeals within the time permitted by the learned Writ Court, which had excluded the period during which the writ petitions were pending for the purpose of computation of limitation. Therefore, we would have been well justified in dismissing the writ appeals and confirming the orders passed by the learned Single Bench. However, taking note of the submission made by the learned counsel appearing for the appellant that the person, viz., Mr.Rangarajan, Sales Tax Practitioner, who was dealing with the matter, had been affected by Corona and ultimately passed away. In any event, the writ petitions were pending from the year 2014 and the appellant had the benefit of interim order in the writ petitions.

3.From the records, we find that though the writ petitions were pending from the year 2014 and the assessment orders remained stayed from the said date, the respondent Department did not file any counter affidavit, nor sought for vacating the interim order. This factor can also be taken into consideration by this Court while considering as to whether the appellant shall be granted some indulgence. Thus, taking note of these factors and that though the writ petitions were pending from the year 2014 when pointed out, the appellant readily withdrew the writ petitions and agreed to go before the appellate authority, this Court is of the view that the appellant should be granted indulgence so that the appeals will be heard on merits subject to pre-deposit conditions.

4.Accordingly, the writ appeals stand disposed of permitting the appellant to re-present the appeal papers, which were returned on 08.02.2021 in S.R.Nos.52, 53, 54, 55 and 56/2021-AI for the assessment years 2009-10 to 2013-14 before the Appellate Deputy Commissioner (ST), Coimbatore within a period of thirty days from the date of receipt of a copy of this judgment and if the appellant has complied with the pre-deposit condition in terms of the TNVAT Act, the Appellate Authority shall consider the appeals and decide the same on merits and in accordance with law, after affording an opportunity of personal hearing to the Authorized Representative of the appellant. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IX)
//True Copy//

Sub Assistant Registrar

abr

To

1. The Assistant Commissioner (CT),
   Avinashi Assessment Circle,
   Avinashi.
2. The Principal Secretary/Commissioner of
   Commercial Taxes, Ezhilagam,
   Chepauk, Chennai-600 005.
3. The Appellate Deputy Commissioner (ST)
   Coimbatore.

+1CC to Mr.R.Senniappan, Advocate, Sr.No.50940
+1CC to Mr.Special Government Pleader (Taxes), Sr.No.51038

W.A.Nos.2430, 2431, 2440,
2414 & 2417 of 2021

SR (CO)
K.RK. (26.10.2021)