IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2021

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.NO.26825 OF 2021
AND
W.M.P.NO.28269 OF 2021

(Through Video Conferencing)

Sri Mahalakshim Pharma,
Represented by its Managing Partner,
No.22, Nachiappa Street,
Erode. ... Petitioner

.Vs.

The Assistant Commissioner (ST),
Mettur Road Circle, Erode. ... Respondent

PRAYER:-

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records of the respondent in his proceedings in TIN:33233043146/2013-2014, quash the assessment order dated 27.01.2021 passed therein.

For Petitioner : Mr.P.V.Sudakar

For Respondent : Ms.Amirta Poonkodi Dinakaran
Government Advocate

ORDER

Ms.Amirta Poonkodi Dinakaran, learned Government Advocate takes notice on behalf of the respondent.

2. The petitioner has challenged the impugned Assessment Order dated 27.01.2021. By the impugned Assessment Order, the respondent has confirmed the demand proposed in the notice dated 31.07.2020 as the petitioner failed to participate and respond to the aforesaid notice.

3. It is the specific case of the petitioner that during the time when the aforesaid notice dated 31.07.2020 was issued, where the petitioner who is located in Erode District was still reeling under the Second Wave of Covid-19 and that lockdown was in place and therefore the petitioner could not respond to the aforesaid notice.

4. The learned counsel for the petitioner further submits that earlier the petitioner had been issued notices under Section 22(3) of the TNVAT Act, 2006 on 27.08.2018, 15.10.2018 and 20.08.2019 and that the petitioner had attempted to furnish the records before the respondent who however could not entertain the petitioner as the Officer was busy by completing the assessments for other dealers.

5. The learned counsel for the petitioner further submits that after the impugned order dated 27.01.2021 was issued to the petitioner, the petitioner approached the respondent and filed a representation dated 22.03.2021 in line with the provisions of Section 22(6) (a) of the TNVAT Act, 2006 which has been rejected by the respondent by a communication dated 12.04.2021 stating that the aforesaid application should have been filed within a period of thirty days from the date of receipt of a copy of this order.

6. The learned counsel for the petitioner prays that the impugned Assessment Order dated 27.01.2021 be quashed and the case be remitted back to the respondent to pass a fresh order.

7. It is submitted that the petitioner's representation under Section 22(6) (a) of the TNVAT Act, 2006 should have been considered as the Hon'ble Supreme Court has extended the period of limitation by its order dated 23.03.2020, orders dated 08.03.2021, 27.04.2021 and by its order dated 23.09.2021.

8. The learned counsel for the petitioner has also placed reliance on Circular No.157/13/2021/GST dated 20.07.2021 wherein, the decision of the Hon'ble Supreme Court has been implemented by extending the period of limitation.

9. The learned Government Advocate for the respondent submits that the petitioner has an alternate remedy and therefore this Writ Petition is liable to be dismissed.

10. The learned Government Advocate for the respondent further submits that the petitioner has approached this Court belatedly in respect of an order passed on 27.01.2021 and therefore on this Count this writ petition is liable to be dismissed on account of latches.

11. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Government Advocate for the respondent and perused the impugned Assessment Order.

12. Though the facts indicate that the petitioner has been negligent in not furnishing the required documents and informations which were called for under Section 22(3) of the TNVAT Act, 2006 on 27.08.2018, 15.10.2018 and on 20.08.2019, the fact remains that when the Show Cause Notice dated 31.07.2020 which preceded the impugned Assessment Order dated 27.01.2021 was issued the Country was under lockdown. Districts in Tamil Nadu were under complete lockdown.

13. Considering the above fact, I am inclined to quash the impugned Assessment Order and remit the case back to the respondent to pass a speaking order within a period of forty five days from the date of receipt of a copy of this order.

14. Liberty is given to the petitioner to file all the documents and the informations within a period of fifteen days from the date of receipt of a copy of this order. The first date of hearing before the respondent is hereby fixed on 10.01.2022.

15. This Writ Petition stands disposed of with the above observations. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

arb

To

The Assistant Commissioner (ST),
Mettur Road Circle, Erode.

+1cc to Mr.B.Raveendran, Advocate, S.R.No.67613
+1cc to the Special Government Pleader (Taxes), S.R.No.67882

W.P.NO.26825 OF 2021 AND
W.M.P.NO.28269 OF 2021

SRA(CO)
PBS/28/12/2021