



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.03.2021

CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P.(MD)No.13963 of 2016 and

W.M.P.(MD)No.10388 of 2016

WEB COPY

M/s.Kulandaivel Agencies,
Rep. by its Proprietor,
K.Srinivasan,
No.4/568, Main Road,
Uranipuram, Orathanadu Taluk,
Thanjavur District.

... Petitioner

Vs.

The Commercial Tax Officer(FAC),
Pattukkottai -II Assessment Circle,
Pattukkottai,
Orathanadu Taluk,
Thanjavur District.

... Respondent

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the respondent in TIN 33294181117/2007-2008 dated 09.05.2016 and quash the same as illegal, arbitrary and against the provisions of the Act.

For Petitioner : Mr.K.Soundararajan
For Respondents : Mr.G.Arjunan,
Government Advocate.

* * *

O R D E R

Heard the learned counsel on either side.

2. The petitioner is a dealer registered with the respondent. The case on hand pertains to the assessment year 2007-2008. The petitioner's assessment was finalised on 15.02.2010. Since certain discrepancies were pointed out by the audit wing, action was initiated under Section 27 of Tamil Nadu Value Added Tax Act, 2006 vide notice dated 31.03.2016. Subsequently, the petitioner gave his reply. On 09.05.2016, the impugned order was passed confirming the proposal set out in the notice. The same is assailed in this writ petition.

3. The respondent has filed counter affidavit.

4. The order impugned in this writ petition has to be quashed



and the writ petition has to be allowed on a short ground.

5. There can be no dispute that the date of original assessment is 15.02.2010. Therefore, if the authority wanted to reopen the same, action should have been initiated within five years. The said period would expire on 14.02.2015. But in this case, action was initiated only in the year 2016. Therefore, the proceedings are patently hit by limitation. On this ground, the order impugned in this writ petition is quashed. This writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

PMU

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 Commercial Tax Officer(FAC),
Pattukkottai -II Assessment Circle,
Pattukkottai,
Orathanadu Taluk,
Thanjavur District.

+1 CC to M/s.K.SOUNDARARAJAN, Advocate (SR-8570[F] dated 03/03/2021)

W.P.(MD)No.13963 of 2016

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