IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2022

CORAM

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. NOS.3418 & 3422 OF 2022
AND
W.M.P.NOS.3527 & 3529 OF 2022

Ajay Kumar Agarwal,
Proprietor,
Bhavani Baby Products,
No.17, Gopalakrishna Road,
T.Nagar, Chennai – 600 017.

... Petitioner in both WPs

Vs

Assistant Commissioner (ST),
Pondy Bazaar Assessment Circle,
No.46, Pasumpon Muthuramalingam Salai,
R.A.Puram, Chennai – 600 028.

... Respondent in both WPs

PRAYER in W.P.No.3418 of 2022:

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for the impugned proceedings of the respondent passed in TIN/33511523196/2010-11 dated 29.01.2022 and quash the same.

PRAYER in W.P.No.3422 of 2022:

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for the impugned proceedings of the respondent passed in TIN/33511523196/2011-12 dated 29.01.2022 and quash the same.

For Petitioner (in both WPs) : Mr.N.Murali

For Respondent (in both WPs) : Mr.Richardson Wilson Additional Government Pleader

COMMON ORDER

The prayers sought for herein is for a Writ of Certiorari to call for the impugned proceedings of the respondent passed in TIN/33511523196/2010-11 and TIN/33511523196/2011-12, dated 29.01.2022 and quash the same.

2. The impugned orders in these writ petitions are the assessment orders passed under Section 27 of the Tamil Nadu Value Added Tax Act, 2006 for the Assessment Year 2010-11 and 2011-12.

3. Assailing the said orders, Mr.N.Murali, the learned counsel appearing for the petitioner has contented that, the last date of deemed assessment for the Assessment Year 2010-11 is 30.06.2012 and in respect of Assessment Year 2011-12, it is 31.10.2012.

4. Thereafter, if at all anything to be initiated under Section 27 of the TNVAT Act, that should have been made within the limitation period of six years from such last date. However, admittedly, in these cases, the notices issued in the first case, i.e., for the AY 2010-11 is on 04.01.2021 and for AY 2011-12 is on 02.09.2021, therefore, it is clearly barred by limitation. Hence, on that ground, the learned counsel appearing for the petitioner seeks indulgence of this Court against the impugned order.

5. Heard Mr.Richardson Wilson, learned Additional Government Pleader appearing for the respondent who would submit that, though it is claimed by the petitioner, the notices was issued on 04.01.2021 and 02.09.2021 in respect of the AY 2010-11 and 2011-12, which is culminated in the impugned orders, it has to be checked up whether any earlier notices issued in between, by which the limitation is saved or not, and to be ascertained.

6. I have considered the said submissions made by the learned counsel appearing for the parties and have perused the materials placed on record.

7. I have perused the impugned orders in both the cases, where except the date 04.01.2021 and 02.09.2021 as if that the office of the respondent issued notice, no other reference has been made. Therefore, it has become clear that, prior to the

notices dated 04.01.2021 and 02.09.2021, no notice was issued. Therefore, the case cannot be improved by the respondent as nothing has been reflected in the impugned orders except the said notices referred above.

8. If that being the position, the impugned orders cannot stand in the legal scrutiny, because the very notices issued in both the cases are beyond the limitation period of six years, therefore, it is barred by limitation. Hence, the impugned orders are liable to be set aside.

9. Accordingly, the impugned orders are set aside and the Writ Petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sp/tsvn

To

The Assistant Commissioner (ST),
Pondy Bazaar Assessment Circle,
No.46, Pasumpon Muthuramalingam Salai,
R.A.Puram, Chennai - 600 028.

+1cc to the Special Government Pleader, S.R.No.12488

W.P. Nos.3418 & 3422 of 2022

PMK(CO)
PM/09/03/2022