BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **30.03.2022**

CORAM:

THE HONOURABLE MR.JUSTICE **C.SARAVANAN**

W.P.(MD) No.5713 of 2022

in

WMP(MD) No.4562 of 2022

M/s.Parveen Traders,
represented by its Proprietor J.Rafeq Ahmed,
No.65-67, Nethaji Road,
Madurai 625 001. ... Petitioner

Vs./

The Assistant Commissioner (ST)
Nethaji Road Assessment Circle,
Commercial Taxes Complex,
Madurai 625 020. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records of the respondent in his proceedings in CST No.149245/2011-12 dated 11.01.2022 quash the same as it is illegal, violation of the principles of natural justice and without jurisdiction as the same is barred by limitation as per the provisions of Sec.9(2) of the Act read with the Tamil Nadu Value Added Tax Act 2006 and also in view of the Judicial decisions rendered by this Court in the case of M.U.A Arulmigu Perumal and Sons reported in 16 VST 188 (2008).

For Petitioner : Mr.Satheesh Murugan

For Respondent : Mr.M.Prakash
Additional Government pleader

ORDER

This writ petition is disposed of at the time of admission by quashing the impugned order dated 11.01.2022, inasmuch as the impugned order has been passed without affording an opportunity of hearing to the petitioner.

2.It is the specific case of the petitioner that the dispute pertains to the assessment year 2011-2012 under the Central Sales

Tax Act, 1956 and that the assessment was deemed to have been completed on 31.10.2012 and that the last date for reopening of the assessment expired on 31.10.2018. It is submitted that the respondent issued a notice dated 05.04.2019 long after the expiry of limitation and therefore, the entire exercise was without jurisdiction.

3.It is further submitted that pursuant to the aforesaid notice dated 15.04.2019, the petitioner has also filed copies of 'C' Form, which is the subject matter of the dispute. However, without considering the 'C' Form submitted by the petitioner on 15.04.2019, the respondent has passed the impugned order.

4.The learned Additional Government Pleader for the respondent submits that the writ petition is without any merits, inasmuch as the petitioner has an alternate remedy before the Appellate Authority under the provisions of TNVAT Act, 2006. He therefore submits that the writ petition deserves to be dismissed by giving liberty to the petitioner to workout the remedy before the Appellate Authority.

5.I have considered the arguments advanced by the learned counsel for the petitioner and the learned Additional Government Pleader for the respondent.

6.The dispute pertains to the assessment year 2011-2012 under the CST Act, 1956. The provisions of the TNVAT Act, 2006 are applicable for procedures under the TNVAT Act, 2006. As per Section 22(2) of the TNVAT Act, 2006, the assessment would have been completed on 31.10.2012, if the returns were filed along with all the required documents.

7.The case of the petitioner is that the documents were filed as early as 2013. However, there is no proof available to substantiate the same. The petitioner however seems to have copies of 'C' Form, which were allegedly filed on 15.04.2019. This aspect ought to have been considered by the respondent before passing the impugned order. Instead, the impugned order has been passed without calling upon the petitioner for a hearing.

8.Under these circumstances, I am inclined to quash the impugned order and remit the case back to the respondent to pass orders afresh after hearing the petitioner. It is open for the petitioner to produce photo copies of 'C' Form, which were filed on 15.04.2019. The petitioner is also given liberty to produce any other evidence which may be available with them to substantiate that the originals were filed in the year 2013. The said exercise shall be completed by the respondent within a period of 6 weeks from the date of receipt of a copy of this order.

9.The writ petition stands disposed of, in terms of the above observation. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (A.D.II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

The Assistant Commissioner (ST)
Nethaji Road Assessment Circle,
Commercial Taxes Complex,
Madurai 625 020.

+1 CC to M/s.M.V.MANIBABU, Advocate (SR-15395[F] dated 30/03/2022)

+1 CC to M/s.SPL GP (SR-15731[F] dated 31/03/2022)

W.P.(MD) No.5713 of 2022
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RD(13.04.2022) 3P 4C