IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.Nos.3771, 3773, 3777 & 3780 of 2023 &
W.M.P.Nos.3841, 3843, 3847 & 3849 of 2023

M/s.PHA India Pvt. Ltd.,
Represented by its Authorised Signatory,
Mr.Ragavendran,
C-16 and C-25,
SIPCOT Industrial Park,
Irrugattukottai,
Sriperumbudur - 602 117. ... Petitioner in all W.Ps.

vs.

1.The Assessment Commssioner (ST),
Sriperumbudur Assessment Circle,
4/109, Vardharajapuram,
Nazarathpet,
Chennai - 600 123.

2.The Commissioner of Commercial Taxes,
Ezhilagam, Chennai - 600 005. ...Respondents in all W.Ps.

Common Prayer: Writ petitions filed under Article 226 of the Constitution of India for writ of Certiorari calling for the records relating to Orders in TIN:33071662730/2011-12 dated 30.11.2022, TIN:33071662730/2012-13 dated 30.11.2022, TIN:33071662730/2013-14 dated 30.11.2022 and TIN:33071662730/2014-15 dated 30.11.2022 (Communicated on 14.12.2022) passed by the first respondent and quash the same.

For Petitioner in all W.Ps. : M/s.Lakshmi Kumaran

For Respondents in all W.Ps. : Mr.C.Harsha Raj, Additional Government Pleader

COMMON ORDER

The petitioner has challenged the assessment orders all dated 30.11.2022 passed by the first respondent under the Tamil Nadu Value Added Tax Act, 2006 on the ground of violation of principles of natural justice.

2. MrC.Harsha Raj, learned Additional Government Pleader accepts notice on behalf of the respondents. By consent of both the parties, this writ petition is taken up for final disposal in the admission stage itself.

3. Heard learned counsel for the petitioner and learned Additional Government Pleader appearing for the respondents.

4. The contention of the petitioner is that the reopening of the assessments under section 27 of the TNVAT Act, 2006 which culminated in the impugned Assessment Orders are barred by law of limitation. According to the petitioner, since their assessments have not been reopened within a period of six years from the date of the deemed assessment under section 22(2) of the TNVAT Act, 2006, the impugned assessment orders have to be quashed. According to the petitioner, they did not receive the Show Cause Notice issued by the respondents prior to the passing of the impugned orders to enable them to send a detailed reply. It is also their contention that no personal hearing was afforded to them in the impugned proceedings. Learned counsel for the petitioner drew the attention of this Court to section 27(1) of the TNVAT 2006 and submitted that as per the said section within a period of six years, from the date of the deemed assessment under section 22(2) of the Act, the respondents ought to have reopened the assessment in case of escaped turnover or wrong availment of income tax credit.

5. The details of the assessment orders, date of deemed assessments under section 22(2) of the TNVAT Act, 2006, the date of issuance of Show Cause notices, the date of impugned assessment orders passed by the first

respondent in respect of the writ petitions are detailed hereunder:

Sl.No.	***Writ Petitions***	***3771 of 2023***	***3773 of 2023***	***3777 of 2023***	***3780 of 2023***
1	Assessment Year	2011-12	2012-13	2013-14	2014-15
2	Date of assessment (Section 22(2) of the TNVAT Act 2006)	31.10.2012	31.10.2013	31.10.2014	31.10.2015
3	Date of issuance of Show Cause Notice	04.05.2022	04.05.2022	04.05.2022	04.05.2022
4	Date of Impugned order passed by the 1st respondent	30.11.2022	30.11.2022	30.11.2022	30.11.2022
5	Input Tax Credit reversal under Section 19(5)(c) of the TNVAT Act, 2006	91,813/-	1,81,577/-	38,249/-	11,82,201/-
6	Input Tax Credit (ITC) reversal under the proviso to Section 19(2)(v) of the TNVAT Act, 2006	-	-	5,87,073/-	13,57,574/-
7	Total Demand confirmed in the Impugned Order	91,813/-	1,81,577/-	6,25,322/-	25,39,775/-
8	Total ITC reversed by the Petitioner	-	-	-	19,62,693/-
9	Balance amount	91,813/-	1,81,577/-	6,25,322/-	5,77,082/-

6. As seen from the above tabular column which is in accordance with the contention of the petitioner in these writ petitions, it is noticed that in respect of reopening of the assessments, it is not within the period of six

years from the date of the deemed assessment under section 22(2) of the TNVAT Act, 2006.

7. Admittedly, the petitioner has not sent any reply to the Show Cause Notices sent by the respondents which culminated in passing of the impugned assessment orders. The petitioner categorically contends that they never received any Show Cause Notice from the respondents. As seen from the impugned Assessment Orders, no personal hearing has also been afforded to the petitioner. Since the contentions of the petitioner raised in this writ petition have not been considered in the impugned assessment orders and the petitioner has also not been granted personal hearing in the impugned proceedings, necessarily, the impugned assessment orders have to be quashed on the ground of violation of principles of natural justice and the matter has to be remanded back to the first respondent for fresh consideration on merits.

8. For the foregoing reasons, the impugned Assessment Orders all dated 30.11.2022 are hereby quashed and the matters are remanded back to the first respondent for fresh consideration. The first respondent shall pass

final orders on merits and in accordance with law in respect of the contentions raised by the petitioner including the limitation issue, after furnishing a copy of the Show Cause Notices to the petitioner to enable them to submit a detailed reply, after adhering to the principles of natural justice including the limitation issue and also by granting the petitioner a right of personal hearing within a period of three months from the date when the respondents have served on the petitioner a copy of the Show Cause Notices.

9. With the aforesaid directions, these writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

08.02.2023

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Index: Yes/No
Speaking order/Non-Speaking Order
Neutral Citation : Yes/No

To

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ABDUL QUDDHOSE, J.
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