IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2023

CORAM

THE HON'BLE **MR.JUSTICE C.SARAVANAN**

W.P.No.8798 of 2021
and
W.M.P.Nos.9326 & 9327 of 2021

M/s.Game Shopee,
Represented by its Proprietor ... Petitioner

Vs.

The Commercial Tax Officer,
Kodambakkam Assessment Circle,
IV Floor, PAPJM Building Annex,
Greams Road,
Chennai – 600 006. ... Respondent

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorari to call for the impugned proceedings of the respondent in TIN/33971423906/2011-2012 dated 04.09.2019 and the connected proceedings issued in TIN/33971423906/2011-2012 dated 15.02.2021 and quash the same as the impugned proceedings are clearly contrary to law and against the provisions of the TNVAT Act.

For Petitioner : Mr.P.Rajkumar

For Respondent : Mr.T.N.C.Kaushik
Additional Government Pleader

ORDER

Mr.T.N.C.Kaushik, learned Additional Government Pleader takes notice on behalf of the respondent.

2. The petitioner is aggrieved by the impugned order passed by the respondent Commercial Tax Officer dated 15.02.2021 bearing reference No.TIN/33971423906/2011-12 for the Assessment Year 2011 to 2012.

3. The learned counsel for the petitioner submits that the impugned order dated 15.02.2021 bearing reference No.TIN/33971423906/2011-12 for the Assessment Year 2011 to 2012 passed by the respondent Commercial Tax Officer was without jurisdiction. The petitioner has questioned the impugned order on the ground that it has been passed beyond the period of limitation under Section 27 of the Tamil Nadu Value Added Tax Act, 2006, (herein after referred to as TNVAT Act, 2006) as the proceeding came to be initiated long after the expiry of the limitation under the aforesaid provision.

4. The learned counsel appearing for the petitioner submits that in view of Section 22(2) of the TNVAT Act, 2006 for the assessment year 2011-2012, the assessment was deemed to have been completed on 31.10.2012. Therefore, a notice to recover the amounts by invoking under Section 27 of the TNVAT Act, 2006, ought to have been issued on or before 31.10.2018. However, notices were issued on 05.07.2019, for the first time followed by another Revision Notice dated 14.08.2019. It is submitted that both the notices are beyond the period of limitation under Section 27(1) of the TNVAT Act, 2006.

5. The learned counsel for the petitioner would further submit that the petitioner had also filed an application under Section 84 of the TNVAT Act, 2006, against the impugned order passed by the respondent.

6. Per contra, learned Additional Government Pleader for the respondent would submit that the impugned order is well reasoned and requires no further interference.

7. It is submitted that the petitioner is a registered dealer who involved in the business of buying and selling of video games console/accessories and on 22.09.2014 an audit inspection was conducted, wherein, the petitioner has admitted to a part of the demand covered by the impugned order dated 04.09.2019.

8. It is therefore submitted that the notices that were issued on 05.07.2019 and 14.08.2019, were nothing but a continuation of the assessment proceeding, pursuant to audit inspection held on 22.09.2014. It is therefore submitted both the impugned assessment order dated 04.09.2019 and impugned order passed under Section 84 of the TNVAT Act, 2006 on 15.02.2021 are within the jurisdiction of the Commercial Tax Department.

9. I have considered the arguments advanced by the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing on behalf of the respondent.

10. I have also perused the impugned order dated 04.09.2019 and 15.02.2021 and the notices that preceded the first mentioned impugned order dated 04.09.2019 on 05.07.2019 and 14.08.2019.

11. The limitation for issuing Revision Notice under Section 27(1) of the TNVAT Act, 2006 expired on 31.10.2018 as the assessment was deemed to have been completed on 31.10.2012 in terms of Section 22 of the TNVAT Act, 2006. Therefore, invocation of Section 27(1) of the TNVAT Act, 2007 for the first time on 05.07.2019 was clearly barred by law. Therefore, the impugned orders are unsustainable.

12. In view of the above, the writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

04.07.2023

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

rgm

C.SARAVANAN, J.

rgm

To

The Commercial Tax Officer,
Kodambakkam Assessment Circle,
IV Floor, PAPJM Building Annex,
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