IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **19.01.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.Nos.6297 and 6299 of 2021
and W.M.P.Nos.6911, 6913, 6914, 6917 of 2021

M/s.Asian Plastics,
Rep. by its Proprietor Umar Farook,
13/9, Davidson Street,
Chennai 600 001. ... Petitioner in both WP's

-vs-

The State Tax Officer,
Loansquare Assessment Circle,
309, Integrated CT Buildings, Chennai (North),
Division,S.No.1275 /3 Elephant Gate Bridge Road,
Chennai 600 003. ... Respondent in both WP's

PRAYER in W.P.No.6297 of 2021: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records of the Respondent in his proceedings in CST/94758 /2011 - 2012 dated 30.11.2020 and quash the same as illegal.

PRAYER in W.P.No.6299 of 2021: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records of the Respondent in his proceedings in CST/94758 /2012 - 2013 dated 30.11.2020 and quash the same as illegal.

For Petitioner in both WP's : Mr.S.Ramanathan

For Respondent in both WP's : Mr.C.Harsha Raj, AGP (Tax)

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COMMON ORDER

In these two writ petitions, assessment orders for the financial years 2011-12 and 2012-13 are assailed. The petitioner was a registered dealer under the Tamil Nadu Value Added Tax Act, 2016 (TNVAT Act) and the CST Act, 1956 (the CST Act). The petitioner had filed returns under the said legislations.

2. As per Section 9(2) of the CST Act the provisions of the corresponding state sales tax laws become applicable to assessment, re-assessment, collection and enforcement of payment of tax. Therefore, the petitioner asserts that the period of limitation specified in Section 27 of the TNVAT Act applies. The period of limitation specified therein is a period of six years from the end of the relevant assessment, including deemed assessment. As per sub-section (2) of Section 22, if a return is duly filed by the registered dealer, there is a deemed assessment as of 31st October of the year following the relevant financial year.

3. As regards W.P.No.6297 of 2021, which relates to the financial year 2011-12, the petitioner states that there was deemed assessment as on 31.10.2012. Consequently, it is submitted that the period of limitation expired on 30.10.2018. By pointing out that the first notice in relation to re-assessment was issued on 25.09.2020, the petitioner contends that the said notice and the assessment order issued pursuant to re-assessment are liable to be quashed. Likewise,

as regards W.P.No.6299 of 2021, which relates to the financial year 2012-13, the petitioner submits that deemed assessment took place on 31.10.2013. Consequently, the period of limitation for purposes of Section 27 should be computed from such date and the period of six years expired on 30.10.2019. Once again, it is stated that since the first notice in relation to re-assessment was issued on 25.09.2020, the notice and the assessment order are barred by limitation.

4. In the counter affidavit of the respondent, the contention regarding limitation was resisted by relying upon sub-section (4) of Section 22 of the TNVAT Act, which enables the assessing officer to make enquiries either if no return is submitted by the dealer or if the submitted return is incomplete or incorrect.

5. In a batch of writ petitions of which the lead case was W.P.No.28896 of 2019, by order dated 27.06.2023, this Court held that the six year limitation period prescribed in Section 27 of the TNVAT Act would also apply to proceedings initiated under sub-section (4)

of Section 22 thereof. In light of this judgment, the defence raised by the respondent cannot be sustained.

6. For reasons set out above, both these writ petitions are liable to be and are hereby allowed by quashing the orders impugned therein. There will be no order as to costs. Consequently, W.M.P.Nos.6911, 6913, 6914, 6917 of 2021 are closed.

19.01.2024

rna
Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No

To

The State Tax Officer,
Loansquare Assessment Circle,
309, Integrated CT Buildings, Chennai (North),
Division,S.No.1275 /3 Elephant Gate Bridge Road,
Chennai 600 003.

SENTHILKUMAR RAMAMOORTHY,J

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