IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **07.06.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

**W.P.No.12553 of 2024**
**and W.M.P.No.13701 of 2024**

M/s.Manali Petro Chemicals Limited,
Represented by its Deputy General Manager – Finance,
No.88, SPIC Building,
Mount Road,
Chennai – 600 032. ... Petitioner

-vs-

The Assistant Commissioner (ST),
Saidapet Assessment Circle,
Chennai – 600 006. ... Respondent

**PRAYER**: 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 No. 731138/2004-05, quash the order dated 27.02.2024 passed therein.

For Petitioner : Mr.C.Subramanian

For Respondent : Mr.T.N.C.Kaushik, AGP (T)

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**ORDER**

An order dated 27.02.2024 imposing CST liability of Rs.23,147/- is assailed in this writ petition.

2. In respect of assessment year 2004-05, an assessment order was initially issued on 24.12.2009. Such order was revised on 18.03.2010. Thereafter, notice dated 25.06.2010 was issued and the petitioner replied thereto on 07.07.2010 raising objections. This was followed by order dated 20.10.2010. According to the petitioner, there were no developments between October 2010 until the impugned order dated 27.02.2024 was issued.

3. Learned counsel for the petitioner submits that the order is unsustainable because the proceedings are barred by limitation. By

pointing out that proceedings should be concluded within a reasonable period even if no limitation period is prescribed by statute, learned counsel relied upon the judgment of this Court in *M/s.Gingee Agriculture Producers v. State Tax Officer, order dated 21.07.2023 in W.P.No.6783 of 2021 (Gingee Agriculture Producers)*. He also points out that the impugned order does not make reference to the petitioner's reply dated 07.07.2010 or the objections therein. Even on the merits, learned counsel submits that differential tax at 10.1% was imposed under the impugned order on the ground that 'C' forms were not submitted by the petitioner. Learned counsel contends that it was not necessary to submit 'C' forms if the goods were supplied to educational institutions. In support of this proposition, learned counsel relies on the judgment of this Court in *Technomed Electronics and another v. Commercial Tax Officer, Thiruvanmiyur Assessment Circle, (2010)28 VST 306 (Madras)*, wherein this Court held that the production of 'C' forms is not necessary as per Notification No.II(1) CT & RE/38/76 dated 20.12.1975.

4. Mr.T.N.C.Kaushik, learned Additional Government Pleader, accepts notice for the respondent. He submits that the impugned order was issued on account of non production of 'C' forms.

5. In *Gingee Agriculture Producers*, this Court referred to earlier judgments, including the judgment in *J.M.Baxi and Co. v. Union of India in 2016(336) E.L.T. 285 (Madras)*, to hold that the adjudication should be concluded within a reasonable time even if a period of limitation is not prescribed in such regard. On such basis, it was concluded that the order of re-assessment cannot be sustained. In this case, prior to the impugned order dated 27.02.2024, the last communication was the order dated 20.10.2010. Therefore, by following the judgment in *Gingee Agriculture Producers*, I conclude that the re-assessment proceedings are unsustainable. Moreover, learned counsel for the petitioner also contended that 'C' forms are not necessary in relation to supply of equipment to educational institutions as per notification dated 20.12.1975. This contention was accepted by this Court in *Technomed Electronics*. For both these

reasons, the impugned order cannot be sustained.

6. Therefore, impugned order dated 27.02.2024 is quashed and W.P.No.12553 of 2024 is allowed as prayed for. No costs. Consequently, W.M.P.No.13701 of 2024 is closed.

**07.06.2024**

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

**To**

The Assistant Commissioner (ST),
Saidapet Assessment Circle,
Chennai – 600 006.

**<u>SENTHILKUMAR RAMAMOORTHY,J</u>**

rna

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