IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **21.11.2024**

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.15626 of 2022
and
W.M.P.No.14847 of 2022

Indus Towers Limited,
Represented by its Finance Head,
Mr.Sanjay Wadhwa,
No.5, 5th Floor, Espee IT Park, Jawaharlal Road,
TVK Industrial Estate
Chennai – 600 032. ... Petitioner

Vs.

The Assistant Commissioner (ST)
Guindy Assessment Circle,
Commercial Taxes Department
Integrated Commercial Taxes and
Registration Building,
Room No.253, 2nd Floor,
Nandanam, Chennai - 35. ... Respondent

PRAYER: Writ Petition is filed under Article 226 of Constitution of India, pleased to issue a Writ of Certiorari to call for the records comprised in Impugned Order and consequential Demand Notice issued in Form-3 dated 13.05.2022 on the file of the Respondent and quash the same.

For Petitioner : Mr.Priyamawada Sinha
For M/s.Suchindran

For Respondent : Mr.V.Prashanth Kiran
Government Advocate

ORDER

The petitioner is before this Court against the Impugned Order dated 13.05.2022 passed under the provisions of the Tamil Nadu Value Added Tax Act (TNVAT) Act, 2006 read with the Central Sales Tax (CST) Act, 1956 for the Assessment Year 2012-2013.

2. The Impugned Order is primarily challenged on the ground of limitation as the Impugned Order has been passed long after the expiry of limitation under Section 27 of TNVAT Act, 2006 as made applicable to the assessment under CST Act, 1956.

3. It is stated by the learned counsel for the petitioner that even otherwise the Impugned Order has been passed in violation of principles of natural justices, the petitioner had not received notice dated 26.08.2020 and notice dated 23.07.2021.

4. The learned Government Advocate for the respondent on the other hand stated that the Impugned Order does not suffer from any infirmity as the petitioner was issued with two notices, which were not replied by the petitioner and therefore, the Impugned Order has been passed.

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

6. The reading of the Impugned Order indicates that the petitioner has not given any reply to the either of the notices dated 26.08.2020 and 23.07.2021. Both the notices were issued during the period when the Covid -19 pandemic was prevailing and when there was a continuous lockdown in the Country. The petitioner deserves a chance to explain the case on merits.

7. As far as the issue relating to the limitation is concerned, the issue is covered against the petitioner by the Order of this Court in **M/s.Orient Fans** Vs. **The State Tax Officer** in W.P.Nos.10118 of 2019 etc batch dated 08.04.2022, which view was reaffirmed by the Division Bench of this Court in **M/s.Oliva Care** Vs. **The State Tax Officer** in W.P.Nos.6153, 6156 and 6157 of 2021 dated 18.09.2024.

8. In view of the above and to balance the interest of the parties, the Writ petition is partly allowed by quashing the Impugned Order and the case is remitted back to the respondent to pass fresh order on merits and in accordance with law.

9. The Impugned Order stands quashed shall be treated as corrigendum to the two mentioned notices.

10. The petitioner shall file a reply to the same within a period of thirty (30) days from the date of receipt of a copy of the order and the respondent thereafter shall pass a fresh order based on the reply to be filed by the petitioner within such time.

11. In case if the petitioner fails to cooperate with the respondent, the respondent is at liberty to pass fresh orders based on the available materials. No costs. Connected miscellaneous petition is closed.

21.11.2024

Index : Yes/No
Neutral Citation : Yes/No
Speaking order : Yes/No

Sma

<u>C.SARAVANAN, J</u>

Sma

To

The Assistant Commissioner (ST)
Guindy Assessment Circle,
Commercial Taxes Department
Integrated Commercial Taxes and
Registration Building,
Room No.253, 2nd Floor,
Nandanam, Chennai - 35.

W.P.No.15626 of 2022

21.11.2024