IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.03.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.21937 of 2021
and
W.M.P. No.23140 of 2021

Tvl.Devi Trading Corporation
Represented by its Partner Mr.Rajesh Kumar Dokania,
No.9/1, Iyya Solomon Road,
Gyanapushpam Nagarsaddiyankuppam Village,
Manali, Chennai-600 103. ... Petitioner

Vs.

The Assistant Commissioner (ST),
Kilpauk Assessment Circle,
No.F50, 1st Avenue, Annanagar (East),
Chennai-600 102. ... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records of the Respondent in TIN:33301121974/2011-12 dated 24.08.2021 and to quash the same as being illegal and unconstitutional as being time barred for having been passed after the expiry of the time limit prescribed for such assessment under the TNVAT Act.

For Petitioner : Mr.R.Ganesh Kumar

For Respondent : Mr.Prashanth Kiran
Government Advocate

ORDER

The present writ petition is filed challenging the impugned order of reassessment made under Section 27 of the Tamil Nadu Value Added Tax Act, 2006 (hereinafter referred to as "the Act") for the assessment year 2011-12 dated 24.08.2021 on the premise that the same is barred by limitation.

2. It is submitted by the learned counsel for the petitioner that no assessment was made for the relevant assessment year i.e., 2011-12 and in view of the deeming contained in Section 22(2) of the Act, the petitioner must be deemed to have been assessed on the 31st October of the succeeding year i.e., 31.10.2012. Power of reassessment under Section 27 of the Act ought to be exercised within 6 years from the date of assessment i.e., 31.10.2012 which in the present case would expire on 31.10.2018. The order of assessment refers to a notice dated 31.12.2020 which is beyond the period of limitation stipulated under Section 27 of the Act, thus the

impugned order of assessment is barred by limitation and a nullity.

3. To the contrary, it is submitted by the learned counsel for the Respondent that even prior to the notice dated 31.12.2020. A notice dated 20.12.2016 was apparently issued and in support thereof postal receipts were also submitted during the course of hearing.

4. The above submission of the Respondent is disputed by the learned counsel for the petitioner who submitted that the alleged notice dated 20.12.2016 was brought to the notice of the petitioner for the first time only during the course of hearing, thereby denying the petitioner an opportunity to respond.

5. In the circumstances, I am of the view that it is appropriate that the impugned order be set-aside and the Respondent is directed to furnish copy of the notice dated 20.12.2016 and proof of service to the petitioner within a period of 4 weeks from the date of receipt of a copy of this order. On the copy of the notice dated 20.12.2016 and proof of service of such notice,

being furnished by the Respondent the petitioner is at liberty to submit documents, raise objections including that of limitation within a period of 6 weeks thereafter. The Respondent shall proceed to pass orders after providing the petitioner a reasonable opportunity of hearing, in accordance with law. The writ petition stands disposed of on the above terms. No costs. Consequently, connected miscellaneous petition is closed.

05.03.2024

Speaking (or) Non Speaking Order
Index : Yes/ No
Neutral Citation: Yes/No
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<u>MOHAMMED SHAFFIQ, J.</u>

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To:
The Assistant Commissioner (ST),
Kilpauk Assessment Circle,
No.F50, 1st Avenue, Annanagar (East),
Chennai-600 102.

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