IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.01.2025

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.2483 of 2025
and
W.M.P.Nos.2795 of 2025

Tvl.V.K.A Agencies,
Rep by its Prop.K.Vaithiyanathan,
6, South Street,
Vedaraniyam, Nagapattinam 614 810. ... Petitioner

Vs.

The State Tax Officer,
Thiruthuraipoondi Assessment Circle,
Thiruthuraipoondi. ... Respondent

PRAYER: Writ Petition 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:33413883067/2013-14, dated 14.11.2024 and quash the same as illegal, barred by limitation, against the principles of natural justice and against the provisions of law and pass.

For Petitioner : Mr.A.Chandrasekaran
For respondent : Mrs.K.Vasanthamala
Government Advocate

ORDER

The present writ petition is filed challenging the impugned order dated 14.11.2024 passed by the respondent relating to the assessment year 2013-14, on the premise that it is barred by limitation in terms of Section 27 of the Tamil Nadu Value Added Tax Act and it also suffers from vice of non-application of mind, inasmuch as though the petitioner had filed a detailed objection, the impugned order proceeds on the premise that the dealers have not filed any objection.

2. It is submitted by the learned counsel for the petitioner that the petitioner is a dealer and registered under the TNVAT Act. During the relevant assessment year 2013-14, the petitioner declared total and taxable turnover of Rs.1,01,90,353/- and 38,27,916/- respectively and paid appropriate taxes.

3. The learned counsel for the petitioner would further submit that, no assessment order was made and thus in terms of Section 22(2) of the Act, the assessment for the assessment year 2013-14 ought to have been deemed to have completed on or before 31.10.2014. It is submitted that, a notice was issued on 01.02.2017 and the petitioner submitted its reply on 17.02.2017. Thereafter, notices were issued to the petitioner on various dates. The petitioner has submitted its reply on 04.11.2024 running to about four pages including the

reference to Division Bench order of this Court in the case of ***N.Nallasenapathi Sarkarai Mandradiar Vs. Commissioner of Agricultural Income Tax***, ***reported in 239 ITR 302***. However, after stating that the objections filed by the above dealer has been carefully considered, the impugned order proceeds to confirm the proposal on the premise that the dealer has not filed any objections.

3.1. The objections filed by the petitioner referred in the impugned order is extracted here under:

"In this regard a notice was issued to the dealer calling for objections if any, the dealer had filed his objections as detailed below:

04.11.2024

From
K. Vaithiyanathan,
V.K.A. Agencies,
NO. 6, South Street, Vedaranyam 614 810.

To
The State Tax Officer (ST),
Thiruthuraipoondi Assessment Circle,
Thiruthuraipoondi.
Sir,

TIN.NO: 33413883067/2013-14

Sub: Reply & objection to your notice dt 25.10.2024. - Reg.
Ref: 1. Your office order u/s 22(2) dt ....
2. Your office notice dt 01.02.2017

3. Your office notice dt 25.10.2024

4. Our reply dt 17.02.2017

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In response to your above notice, we would like to state the following

Actually the first notice was issued on 01.02.2017 and we filed our reply on 17.02.2017.

In this case if the revision of assessment is required that must be passed on or before 31.10.2020 (ie) 6 years from the order dt 31.10.2014 (deemed assessment order u/s 22(2)).

Though our reply was filed on 17.02.2017, after 7½ years this notice dt 25.10.2024 was issued.

We are under the honest belief that the reply was accepted by your department and the proposal was dropped, since if any revision is made that must be passed on or before 31.10.2020, since as per section 22(2) the order must be passed on or before 20.10.2014.

3.2. The relevant portion of the impugned order, which reads as follows:

> "In this case notice was issued on 01.02.2017 and the dealer had filed reply on 17.02.2017. Another notices were issued on 24.04.2018, 16.03.2019, 17.06.2021, 22.10.2021, 29.06.2022 and 20.11.2023. Hence in this case simultaneously notice was issued & the dealer had not filed any objections. Hence in this case time bar of assessment does not arise. In this case reasonable opportunities were given and the dealer had not utilized the above opportunities. Hence final order passed as per sect 27(1)(a) of TNVAT Act as detailed below:"
> Total and Taxable Turnover determined Rs.12,74,260 @ 14.5%

4. On this being pointed out, the learned Government Advocate would submit that the respondent would re-do the assessment after affording the petitioner a reasonable opportunity of hearing.

5. In view thereof, the impugned order 14.11.2024 is set-aside. It is left open to the petitioner to raise all the contentions including issue on jurisdiction before the respondent, within a period of 4 weeks from the date of receipt of a copy of this order. The respondent shall consider the same and pass orders on merits and in accordance with law, after affording the petitioner a reasonable opportunity of hearing.

6. Accordingly, this Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

28.01.2025

Speaking (or) Non Speaking Order
Index : Yes/ No
Neutral Citation: Yes/No
jd
To
The State Tax Officer,
Thiruthuraipoondi Assessment Circle,
Thiruthuraipoondi.

MOHAMMED SHAFFIQ, J.

jd

<u>W.P. No.2483 of 2025</u>

28.01.2025