

MADRAS HIGH COURT Judgments in VAT CST GST

by Sampathkumar V V

Assessment: AO issued a show cause notice on 01.09.2020. Granted 15 days for filing of objections. Petitioner has sought an adjournment of 3 months citing COVID-19 pandemic. This was rejected and granted one-month time. The impugned order has been passed on 12.10.2020. The Court held that the proper procedure for framing of assessment has not been scrupulously followed by the AO in this case, and stating so, the impugned order is set aside. **Tvl. Vel Murugan Timber Inds, Vs STO, Gr-IV, Inspn Unit / Intelligence - I, Chennai- 6. W.P. No.4445 of 2021 DATED: 26.02.2021**

Limitation: Petitioner is not seen to have cooperated. Though there is, no justification to interfere with the impugned order in this WP, the SC in orders Re: Cognizance for Extension of Limitation dtd 23.03.2020, 06.05.2020, 10.07.2020 (C.A. # 4085 of 2020 dated 17.12.2020) has extended time for filing of appeal till 31.01.2021. Thus, limitation is saved and the petitioner is afforded 4 weeks from today to file an appeal before the Appellate AC. **M/s.Xtreme Bike Accessories and Stickers Vs STO, Mettur Road Circle W.P.No.3984 of 2021 DT: 24.02.2021**

TDS non-deduction: Applicable provisions relating to tax deducted at source has not been complied with by the petitioners. Even at the time of hearing of this petition, the relevant particulars such as TDS non-Deduction certificate in Form S or other supporting documents are not available. There is no legal infirmity is pointed out in the impugned order warranting interference under Article 226 of the Constitution of India and hence this Writ Petition is dismissed. **M/s. Nagaraj & Co (P) Ltd., Vs AC (ST), Sholinganallur Assessment Circle W.P. No.3484 of 2021 DATED: 19.02.2021**

Alternative remedy: In final notice dated 04.12.2020, the officer, while granting an opportunity of personal hearing on 14.12.2020 accedes to the request made in letter dated 27.10.2020, for production of additional documents. On that date, neither did the petitioner appear nor were any materials filed in support of its stand. AO, then proceeded to complete the assessment on 20.01.2021. Hence, these WPs are dismissed, as there is no case made out for admitting this WP. **M/s.Alchymarar ICM SM Pvt. Ltd., vs STO, T. Nagar Assessment Circle W.P. Nos.3533 etc of 2021 DT: 19.02.2021**

Natural Justice: The impugned order passed in terms of the CST Act, 1956, shows that there has been no personal hearing afforded to the petitioner prior to finalization of assessment. The provisions of natural justice do not appear to have been adhered to in the present case. The impugned order is thus set aside and Court directed that the petitioner will appear before the respondent Officer along with detailed objections and documents, if any, in support of their contentions. **M/s.Elgi Rubber Co Ltd, Vs AC (ST), Singanallur North Circle, WP No.3376 of 2021 DATED: 18.02.2021**

Limitation: Petitioner has challenged orders of assessment for the periods 2010-11 to 2014-15, all dated 28.02.2018. There is no explanation set-forth for the delay of nearly two and half years in the filing of WPs and it was stated by the petitioners that the orders were served in time. In the light of the judgment of the SC in AC (CT) LTU vs. M/s.Glaxo Smith Kline Consumer Health Care Limited [(2020 (36) GSTL 305 (SC)], there is no justification in entertaining these WPs as they have been far beyond the statutory period of limitation prescribed under the TNVAT Act, 2006. These writ petitions are thus dismissed. **Tvl. Hotel Devi Towers Vs AC (ST), Arisipalayam Assessment Circle, W P Nos.3408, 3411, 3416, 3420 & 3425 of 2021 DATED: 18.02.2021**

Rectification: Petitioner filed an application for rectification u/s 84 of the Act on 26.12.2020 on the ground that there was an error apparent on the face of the record and on 27.01.2021, the impugned order has come to be passed wherein the objections of the petitioner have been considered in detail. If at all the petitioner is aggrieved, it is for the petitioner to challenge the said order in appeal. No ground is made out warranting interference in writ jurisdiction and hence this WP is dismissed. **M/s.C.A.Motor, Vs The STO, (ST), Tiruvarur Assessment Circle, WP No.3325 of 2021 DATED: 17.02.2021**

Natural Justice: Pre-assessment notice was issued on 07.06.2017. Petitioner has filed its objections on 20.07.2017. After silence for more than three years, on 20.10.2020, a revised notice was issued by the incumbent officer, calling upon the petitioner to file objections with evidences within 15 days of the notice and also provides for a personal hearing without stipulating any specific date or time. The Court held that for personal hearing to be effective, it must be fixed by date and time, as the Officer cannot be expected to be available on all days at all times to hear the petitioner as and when he chooses to appear. For the revision notice dated 20.10.2020, the petitioner has sought some time. However, without affording any further opportunity or hearing the petitioner personally, the impugned order has come to be passed, and this is held to be in violation of the principles of natural justice and stating so, the impugned order is set aside. **A-Vone Building Materials Vs STO, Cuddalore Town. WP No.3168 of 2021 DATED: 16.02.2021**

Objections not considered: Impugned order proceeds on the basis that the petitioner has not filed objections or supporting document. According to the petitioner, detailed objections were filed by it on 30.09.2019, received by the respondent, but not considered. This being the admitted factual position, the impugned orders are set aside with directions. **Emjay Steel Uddyog Pvt Ltd, Vs AC (ST), Gummidipoondi Assessment Circle W.P. Nos.17240, 17245 & 17247 of 2020 DATED: 12.02.2021**

Land Cost assessability: Petitioner raises the argument that the amount proposed to be brought to tax includes land cost, not liable to tax. The discussion in the impugned order is cryptic and court set aside the orders and observed that that the impugned proceedings should be redone after hearing the petitioner and considering its reply dated 27.01.2020 as well as any other evidences that may be submitted by it. **M/s. Indira Projects & Development (T) Pvt. Ltd., Vs. STO, Survey Cell II, Intelligence II, Chennai-6. W.P. Nos.8714, 8715 & 8716 of 2020 DATED: 11.02.2021**
