**MADRAS HIGH COURT Judgments in VAT CST GST**

**by Sampathkumar V V**

**Limitation**: Order of attachment dated 10.03.2021 was issued later to the to an order of assessment dated 17.02.2020, which has been served upon the petitioner only on 30.03.2021 by post. Ld Government Advocate stated that the order has been sent by e-mail on the same day of assessment. Service by e-mail is an accepted mode of service vide Section 169 of the CGST Act, 2017. The petitioner stated that it wishes to file a statutory appeal challenging order of assessment. Court held that the petitioner may do so within 4 weeks from today in view of the decision of the Supreme Court in a series of judgments on limitation. **Tvl. Gokul Traders Vs. 1. DSTO (ST), Hosur (North) – II Assessment Circle, W.P. No.10015 of 2021 DATED: 22.04.2021**

**Cross verification report**: The prayers in the WPs are for a mandamus directing the respondent to furnish a copy of the cross-verification report received from the Karnataka State, relied upon in notices dated 12.01.2021. Ld AGP has filed a compilation of documents dated 11.03.2021 containing 22 pages. These documents, he says, constitute the cross-verification report and there is no other document available with the AO upon which reliance is placed. Thus, the mandamus stands achieved. The petitioners are permitted to file their response to the notice, upon receipt of which, the respondent officer shall finalise the assessments in accordance with law and as expeditiously as possible. **Ankit Ispat P Ltd Unit-I, Ankit Ispat P Ltd unit II, Vs. CTO, Kariakal, W.P. No.2530 & 2533 of 2021 DATED: 22.04.2021**

**Alternative remedy:** In a matter of mismatch, the AO records that the details culled out from the Departmental website on the basis of annexure I and II of the purchasing/selling dealers were furnished to the petitioner and thus the burden cast upon the Department stands discharged. Personal hearing is stated to have been afforded on 14.11.2016 and 13.06.2017 and on both dates the petitioner did not appear and neither was there any appearance thereafter. Hence, the Court rules that there is no justification to interfere with the impugned orders under Article 226 of the Constitution of India. The petitioner may file appeals, if it is so inclined, within a period of 2 weeks from today, in view of the decision of the Supreme Court in a series of judgments as to limitation. **Tvl.Rajgaru Plywoods Vs. AC (ST), Shevapet Circle, Salem. W.P. Nos.10072 of 2021 DATED: 22.04.2021**

**Waiver Petition**: Petitioner prays for a Mandamus directing the respondents 3 & 5 to dispose its representation dated 23.01.2021 seeking waiver of interest and penalty. This Court directed on 19.03.2020, R3 & R5, being AC (ST), Salem, and the JC, Salem, to consider the representation and dispose the same. Today, the provisions of Section 16-B of the TNGST Act, 1959 are brought to my notice, as per which, the power to reduce or waive penalty in certain circumstances, stand vested in the Commissioner. Thus, the petitioner is permitted to seek waiver of interest and penalty before the Commissioner. **Salem Textile Limited Vs. 1 Addl Commr (ST), Chepauk, Chennai-6 2.The CTO, Bazzar Circle, Salem-7. 3.AC(ST), Bazzar Circle,. 4.DC (ST), Bazzar Circle, 5.The JC,No.17, Pitchards Road,Salem-7. W.P. No.7225 of 2021 DATED: 22.04.2021**

**Remand directions**: The impugned order has come to be passed without affording an opportunity to the petitioner and merely confirming the original proposals in two words “found intact”. The Court held that this sort of order is absolutely unacceptable as it is in violation of all accepted norms of framing an assessment and set aside the same with directions. **W.P. No.7002 of 2021 DATED: 18.03.2021 Tvl.Dhanalakshmi Automobiles Vs. 1. DCTO I Vriddhacahalam 2.ADC (CT), Cuddalore**.

**Attachment for arrears**: An asset admittedly belonging to a Director of company 1 cannot be attached for the arrears of another Company, especially when the said property has not been offered as security by the Director to the CT Department. **International Asset Reconstruction Co P Ltd, Vs.1.CTO, Bhavani, Erode 2. The Sub-Registrar, Bhavani. 3.M/s. Erode Rana Textiles Processors P Ltd, (In Liquidation), W.P.No.35347 of 2019 DATED: 01.04.2021**

**Personal Hearing**: The Ld Government Advocate stated that the non-grant of personal hearing is erroneous. The petitioner ought to have been called for a hearing, and the statement of the AO to the effect that such opportunity was not necessary, is deprecated. Stating so, the impugned orders are set aside on this short point and remanded back to the Assessing to be redone afresh. **M/s.Rasi Seeds (P) Ltd, Vs. STO, Attur (town) Assessment Circle, W.P. No.9974, 10174, 8342 & 8341 of 2020 DATED: 22.03.2021**

**Stay order**: The direction to pay Rs.58,590/-, issued by the Appellate authority in a stay order, has been complied . The petitioner is aggrieved against the condition imposed in regard to the furnishing of bank guarantee for the balance of the disputed tax and penalty. WP Prayer that the same be modified to furnish a personal bond instead of bank guarantee is accepted by the Court. **M/s.Cauvery Timber Co (P) Ltd vs. 1. AC (ST), Saravanampatti West Circle, 2. Appellate DC, Coimbatore. W.P. No.10606 of 2021 DATED: 28.04.2021**

**Stay orders:** Case law rulings in CTO Vs A. Infrastructure Ltd. (87 VST 190)(SC) has been noticed by the first appellate authority, who rightly states that the grant or refusal of a request for stay is a matter of exercise of discretion. Having said so, it then becomes incumbent upon him to consider the three factors for grant of stay or rejection thereof and pass a speaking order on the applicability of the aforesaid factors to the facts and circumstances as well as the legalities that arise in a particular case. However, this has not been done in the present matter and the first appellate authority proceeds to pass a rather mechanical order calling upon the petitioner to remit a further 25% of tax and furnish a bank guarantee for the balance. This is akin to orders that are routinely passed in stay applications and ought not to be passed, as a matter of routine. The impugned orders are set aside with a direction that the petitioner be heard and orders passed afresh on the stay applications. **M/s.Chennai Petroleum Corpn Ltd., Vs 1 DC (CT) – III (FAC) LTU , 2. JC (CT) (Appeals), W.P Nos.8676 and 8678 of 2021** **DATED: 08.04.2021**

**Court Directions**: When the representation of the petitioner was not considered and the impugned order has been passed without hearing the petitioner the impugned order of assessment is set aside with the directions that the petitioner appear before the AO on 05.05.21 at 10.30 a.m along with materials without expecting any further notice. The AO is directed to pass an order of assessment, de novo, within a period of 4 weeks thereafter, in accordance with the law. **Tvl.S.S.S.Jewel Paradise (P) Ltd, Vs. AC (ST), Dharmapuri Assessment Circle, W.P. No.5868 of 2021 DATED: 29.04.2021**

**Natural Justice**: A notice appears to have been issued pursuant thereto the petitioner has filed a response dated 18.02.2021. Proof of service of the same is placed in the typed set accompanying the WP. AO proceeded stating that there has been no response and finalised the assessments. No opportunity of personal hearing has also been afforded. The impugned orders are set aside by the Court with certain directions. **M/s.Sridevi Traders, Vs. DSTO, Thirukoilur. W.P. Nos.10692 & 10694 of 2021 DATED: 29.04.2021**

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