IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.12471 of 2015

and

M.P.No.1 of 2015

M/s.Empee Distileries Ltd.,
Empee Tower, No.59, Harris Road,
Pudupet, Chennai - 600 002.
Rep. by its Chairman Mr.M.P.Purushothaman ... Petitioner

vs.

1.The Commissioner of Commercial Taxes,
Government of Tamil Nadu,
Chepauk, Chennai - 600 005.

2.The Joint Commissioner,
Commercial Taxed CT,
Large Tax Payers Unit, Chennai - 600 008.

3.The Deputy Commissioner,
(Commercial Taxes-CT-I)
Large Tax Payers Unit, Chennai - 600 008.

4.The Tamil Nadu State Marketing Corporation Ltd.,
(TASMAC) 4th Floor, CMDA Tower II,
Gandhi Irwin Bridge Road,
Egmore, Chennai - 600 008,
Rep. By its Managing Director ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records of the 3rd respondent relating to the Notice in Form 'U' dated 21.04.2015 for the Month of February 2015 and for the Month of March 2015 and quash the same and direct the respondents 1 to 3 to grant reasonable time to the petitioner to pay the present VAT arrears of Rs.43,01,98,764.54/-.

For Petitioner : M/s.M.Sneha

For Respondents : Mr.ANR.Jayaprathap,
Govt. Advocate (CT) R1 to R3
Mr.S.Muthuraj for R4

O R D E R

This writ petition is directed against the impugned notice for recovery of money due (Form U) issued under Rule 9(4) of the Tamil Nadu Value Added Tax Act-2006 calling upon the petitioner to pay forthwith the money due/being held by them within 15 days from the date of service of this notice by crossed Demand Draft or Bankers cheque or crossed cheque in favour of the undersigned or by remittance into the Government Treasury at Chennai failing which the amount will be a charge on their properties and will be recovered as if it were an arrear of land revenue.

2. The learned counsel appearing for the petitioner does not deny the liability. It is the claim of the petitioner that the sales turnover of the petitioner at about Rs.65.00 Crores per month which includes Excise Duty and VAT at 58% under Section 21 of the Tamil Nadu Value Added Tax Act 2006. The petitioner is bound to file return in the prescribed format within a period prescribed in a manner along with proof of payment of taxes. Being so Rule 7 of the VAT Rules 2007 inter alia provides a registered dealer whose turnover in the preceding year is Rupees Two Hundred Crores and above, shall file a return on or before 12th of the succeeding month to the Assessing Authority and whose jurisdiction the principal places of business or Head Office is situated and the Return shall be accompanied by proof of payment of tax. In the event of delay in payment of tax, it attracts penal interest @ 2% per men sum. However, the grievance of the petitioner is that due to the increase in cost of production, the selling price remain the same as there has been no price revision over a period of time. In the meanwhile, the petitioner has been pushed to a situation of financial crunch. As a result, he was not able to pay the tax on the date of filing return. Therefore, the learned counsel appearing for the petitioner although received the impugned Form U notice, requested this Court to permit the petitioner to clear all the tax liability with interest within 12 weekly easy installments commencing from next week.

3. Opposing the above prayer, the learned Government Advocate appearing for the respondents submits that the petitioner has admitted their liability. It is for them to go file an application before the 1st respondent and not before this Court. Therefore, if the petitioner makes any such reasonable request the same would be considered.

4. This Court taking note of the facts of the case and considering the submission of the learned counsel for the petitioner, directs the petitioner to clear the entire tax liability with the interest at the rate of 2% in 6 weekly installments commencing from 06.05.2015, i.e. on every Wednesday. It is made clear that the petitioner shall not file any application for further extension of time either before this Court or any other authority.

5. With the above direction, this Writ Petition is disposed of. No costs. Consequently connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

vsm
To

1.The Commissioner of Commercial Taxes,
Government of Tamil Nadu,
Chepauk, Chennai - 600 005.

2.The Joint Commissioner,
Commercial Taxed CT,
Large Tax Payers Unit, Chennai - 600 008.

3.The Deputy Commissioner,
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4.The Managing Director,
Tamil Nadu State Marketing Corporation Ltd.,
(TASMAC) 4^{th} Floor, CMDA Tower II,
Gandhi Irwin Bridge Road,
Egmore, Chennai - 600 008,

+1 cc to M/S.S.Muthuraj, Advocate sr.23106
+1 cc to special Government Pleader (Taxes) highcourt madras sr.23222
+1 cc to M/S.J.Ravindran Advocate sr.23136

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