IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.07.2015

CORAM

THE HON'BLE MR. JUSTICE T.RAJA

W.P.No.20445 of 2015
and
M.P.No.1 of 2015

Finolex Cables Limited rep. by its
Assistant Vice President Sales
M.Janakiraman ... Petitioner

Vs.

1. The Deputy Commissioner
(CT) - III (FAC),
Large Taxpayers Unit,
Dugar Towers, 5th Floor,
Marshalls Road, Chennai - 8.

2. Authority for Clarification and
Advance Ruling,
Office of the Commissioner of
Commercial Taxes,
Ezhilagam, Chepauk, Chennai - 5. ... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus to call for the records on the file of the first respondent herein in TIN 33961501172/2014-15 dated 17.06.2015, quash the same, while directing the first respondent herein to forbear from initiating assessment and recovery proceedings to recover differential tax of 9.5% on the sales of the high voltage cables sold by the petitioner pending disposal of the application dated 13.06.2015 filed by the petitioner under Section 48A of the TNVAT Act, 2006 before the second respondent on 15.06.2015.

For Petitioner : Mr.N.Prasad

For Respondents : Mr.A.N.R.Jayapratap,
Government Advocate (T)

ORDER

This writ petition is directed against the impugned order of the first respondent dated 17.06.2015, on various grounds raised in the affidavit filed in support of the writ petition.

2.The learned counsel for the petitioner emphatically submitted that though the assessment year 2014-2015 was over on 31st March, 2015, instead of issuing notice for final assessment of the said year, the assessing officer has issued notice two months after the closure of the assessment year, inviting the petitioner to submit his reply or objection only with regard to the period from November, 2014 to March, 2015 for provisional assessment. Therefore, the learned counsel has submitted that the impugned order needs to be quashed, on this ground.

3.The learned Government Advocate appearing for the respondents is not in a position to support the impugned order as the assessment officer has issued notice only on 11.05.2015, after a period of two months from the closure of the assessment year.

4.It is well settled legal position that no provisional assessment can be resorted to when the final assessment is required to be made after the closure of the assessment year. Because, this will lead to multiplicity of proceedings and wastage of valuable time of the Department.

5.Therefore, without going into the merits of the other issues, the impugned order is set aside and the matter is remanded back to the assessing officer for redoing the final assessment for the year 2014-15 after issuing notice to the petitioner. After receipt of reply from the petitioner, it is for the first respondent to consider the same and pass appropriate orders on merits and in accordance with law.

6.In the result, the writ petition shall stand allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Deputy Commissioner
   (CT) - III (FAC),
   Large Taxpayers Unit,
   Dugar Towers, 5th Floor,
   Marshalls Road, Chennai - 8.

2. Authority for Clarification and
   Advance Ruling,
   Office of the Commissioner of
   Commercial Taxes,
   Ezhilagam, Chepauk, Chennai - 5.

+1cc to Mr.N.Inbarajan, Advocate, S.R.No.34843

W.P.No.20445 of 2015

BVR(CO)
CA(03/09/2015)