IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.07.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.21983 of 2015

Canon India Private Limited,
Rep. By its Assistant Manager - Credit,
Finance and Accounts,
No.6/23, Shiva Ganga Road,
Nungambakkam, Chennai - 600 034. ... Petitioner

Vs.

1.The Assistant Commissioner (CT),
Valluvarkottam Assessment Circle,
No.10, Palaniappa Malaigai,
Greams Road, Chennai - 600 006.

2.Commissioner of Commercial Taxes,
Chepauk, Ezhilagam Complex,
Chennai - 600 005.

3.Government of Tamil Nadu,
Rep. By its Secretary,
Commercial Taxes Department,
Fort St. George, Chennai - 600 009. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue writ of certiorari to call for the records relating to the Notice passed by the first respondent in RC No.AC/CST/L.Reg.61, dated 17.07.2015, quash the same.

For Petitioner :Mr.Varun Chablani

For Respondents :Mr.V.Haribabu, AGP (T)

ORDER

This writ petition has been filed by the petitioner challenging the impugned assessment notice dated 17.07.2015 issued by the first respondent / the Assistant Commissioner (CT), Valluvarkottam Assessment Circle, Chennai.

2. It is the claim of the petitioner that initially the petitioner has filed a writ petition being W.P.No.19269 of 2015 challenging the order dated 05.06.2015 passed by the first respondent. This Court, by order dated 01.07.2015, by quashing the said order, directed the first respondent to pass fresh orders after considering the application under Section 84 of the TNVAT Act, with a further direction to the first respondent not to initiate any recovery proceedings until disposal of the said application. Though the petitioner, vide his letter dated 01.07.2015, has communicated these developments to the first respondent, the first respondent has still issued the present impugned recovery notice dated 17.07.2015 seeking to recover a sum of Rs.2,36,59,229/- within two days of issuance. Thus, it is stated that as the order passed by this Court on 01.07.2015 was subsequently communicated to the first respondent during the pendency of the present writ petition, recovery order passed by the said authority is liable to be quashed.

3. In view of the above, considering the fact that this Court has already quashed the assessment order dated 05.06.2015 of the first respondent vide W.P.No.19269 of 2015, dated 01.07.2015, and only for the reason that a copy of the above said order of this Court could not be placed before the first respondent, the petitioner was issued with the present impugned recovery notice dated 17.07.2015 seeking to recover a sum of Rs.2,36,59,229/-, such order of the first respondent is necessarily liable to go, as the order of this Court passed in W.P.No.19269 of 2015, dated 01.07.2015, has been subsequently communicated to the first respondent. Therefore, this Court, by setting aside the present impugned recover notice, allows the writ petition. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

rkm

To

1.The Assistant Commissioner (CT),
Valluvarkottam Assessment Circle,
No.10, Palaniappa Malaigai,
Greams Road, Chennai - 600 006.

2.Commissioner of Commercial Taxes,
Chepauk, Ezhilagam Complex,
Chennai - 600 005.

3.Government of Tamil Nadu,
Rep. By its Secretary,
Commercial Taxes Department,
Fort St. George, Chennai - 600 009.

1 cc to Mr. Lashmi Kumaran, Advocate Sr.No.38301
1 cc to Spl.Government Pleader Sr.NO.38329

W.P.No.21983 of 2015

AK(CO)
PMK.29.7.2015