IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.08.2015

CORAM:

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P.No.24186 & 24187 of 2015

and

M.P.Nos.1 of 2015

Mahindra & Mahindra Limited,
Rep. By Shri.R.K.Sairam,
Manager CI & S Accounts-Admin.,
Mahindra Towers, 1st Floor,
No.17/18, Patullos Road,
Chennai 600 008.

... Petitioner both WPs

-Versus-

The Deputy Commissioner of (C.T.)-II
Large Tax Payer Unit,
5th Floor, Dugar Towers,
No.34, Marshall Road,
Chennai 600 008.

...Respondent in both WPs

Writ Petitions filed under Article 226 of the Constitution of India for the relief of issuance of Writ of Certiorari calling for the records of the respondent relating to the Assessment Order in TIN /33510640011/2008-09 and 2009-2010 dated 31.03.2015 and to quash the above said assessment order as arbitrary and illegal.

For petitioner in both Writ Petitions : Mr.Joseph Prabakar

For respondents in both Writ Petition : Mr.S.Kanmani Annamalai, AGP (Taxes)

COMMON ORDER

The petitioner in both the writ petitions is one and the same with a common issue. Hence, both these writ petitions are take up, heard together and they disposed of by this common order.

2. In both these writ petitions, the petitioner challenges the impugned revised assessment orders relating to the assessment years 2008-09 and 2009-10 respectively.

3. The petitioner is a company registered under The Companies Act and an assessee registered with the Commercial Taxes Department under The Tamil Nadu Value Added Tax Act, 2006 and The Central Sales Tax Act, 1956. The petitioner was assessed under the provisions of Section 22(2) of the TNVAT Act and on the basis of the returns filed for the years 2008-09 and 2009-10 respectively, audits were conducted under Section 64(4) of the TNVAT Act by the Enforcement Wing Office from and during such audits, certain defects were allegedly noticed by the officials. According to the department, there were differences between the VAT turn over reported in returns and the turnover as appeared in the accounts and the inter-State purchases were not reported in the monthly returns. On that basis, a notice dated 23.07.2012 was issued. Acting to the same, the petitioner filed his objections.

2. The main grievance of the petitioner is that there were patent error with respect to application of rate of tax and as such questioning the illegality of the revised orders of assessment, the petitioner is now before this court with these writ petitions.

3. In the revised orders of assessment passed by the respondent in TIN: 33510640011/2009-10 on 31.03.2005, there had occurred some mistakes in respect of rate of taxes on the sale value of generating sets and the tractor implements.

4. According to the learned counsel for the petitioner, the rate of taxes relating to generating sets, tractor implements and other materials indicated in the impugned orders were not correct and he would point out errors apparent on the face of the records. In fact, the petitioner filed applications on 07.05.2015 under Section 84 of The TN VAT Act pointing out certain errors with respect to application of rate of tax and the same are pending.

5. Though a challenge is made to the impugned revised orders of assessment, the learned counsel for the petitioner during the course of hearing of the writ petitions confined his argument to the effect that the petitioner would be satisfied if a direction is issued to the respondent for the early disposal of the applications of the petitioner dated 07.05.2015 filed under Section 84 of the TN VAT Act seeking to rectify errors crept in the impugned orders.

6. Considering the above facts and circumstances of the case and in view of the above submissions made by the learned counsel for the petitioner, this court directs the respondent to consider the applications of the petitioner dated 07.05.2015 filed under Section 84 of the TN VAT Act and to pass appropriate orders thereon in accordance with law and on merits within a period of six weeks from the date of receipt of a copy of this order. Pending disposal, the recovery proceedings if any shall be kept in abeyance. These writ petitions are, accordingly, disposed of. No costs. Consequently, connected MPs are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

kmk
To

1.The Deputy Commissioner of (C.T.)-II,
Large Tax Payer Unit,
5th Floor, Dugar Towers,
No.34, Marshall Road,Chennai 600 008.

+1 cc to Mr.Joseph Prabakar Advocate sr.42122
+1 cc to Special Government Pleader sr.42356

Writ Petition
Nos.24186 & 24187 of 2015

aa11/09/2015