IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.10.2015

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.30496 of 2015 and
M.P.No.1 of 2015

M/s. Empee Distilleries 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 Taxes 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

Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of certiorarified mandamus to call for the records of the 3rd respondents relating to the Notice in Form U dated 23.09.2015 for the August and September 2015 and quash the same and direct the Respondents 1 to 3 to grant 6 months time to the petitioner to pay the present VAT arrears and interest for a total sum of Rs.46, 02, 44, 704.00/-.

For Petitioner :Mr.J.Ravindran
For R1 to R3 :Mr.S.Kanmani Annamalai AGP
For R4 :Mr. S.Muthuraj

ORDER

Writ petition is filed for the issuance of a writ of certiorarified mandamus calling for the records of the 3rd respondents relating to the Notice in Form 'U' dated 23.09.2015 for the months of August and September 2015 and quash the same and direct the Respondents 1 to 3 to grant 6 months time to the petitioner to pay the present VAT arrears and interest for a total sum of Rs.46, 02, 44, 704.00/-.

2. Petitioner is a company duly incorporated under the Indian Companies Act, 1956 inter alia carrying on business in the manufacture and sale of Indian made Forein Liquor. It has been duly registered under the Value Added Tax Act under TIN No.33980640189.

3. The turnover of the petitioner company in the preceding year is above Two Hundred Crores. Due to the financial crunch and other circumstances, the petitioner company was not able to pay the tax on the date of filing of Return. In these circumstances, the third respondent had issued notice for recovery of money due in form 'U' dated 23.09.2015 under Rule 9(4) of the Tamil Nadu Value Added Tax Act 2006 to the fourth respondent calling upon him to pay the total sum of Rs.46,02,44.704/- to the third respondent towards VAT dues and interest. In this regard, the company made a representation to the respondents on 23.09.2015 requesting them to accord permission to pay the arrears of the tax due in weekly installments. Since the request of the petitioner was not considered, the petitioner company is before this Court with this writ petition challenging the said impugned notice.

4. The learned counsel for the petitioner has drawn the attention of this Court to the order dated 08.01.2015 in W.P.No.394 of 2015 and submitted that the petitioner therein was directed to settle the entire arrears along with interest in 12 weekly installments and undertakes to pay the entire arrears along with interest in 24 equated weekly installments.

5. At this juncture, the learned Additional Government Pleader pointed out that the interest accrued also need to be paid by the petitioner along with the entire arrears amount. The relevant portion of the order dated 08.01.2015 referred above, is extracted hereunder:

> "3. Learned Additional Government Pleader appearing for the respondents insisted that the interest accrued also need to be paid by the petitioner and it should not be contended later that the arrears amount determined alone has got to be paid.
>
> 4. The learned Additional Government is perfectly correct. The petitioner will have to pay the amount determined together with

interest till the entire amount is paid to the respondent. Since the petitioner has agreed to pay the amount in 12 weekly instalments, recording the submission of the learned counsel for the petitioner, the respondents are directed to receive the amount due from the petitioner together with interest in 12 weekly instalments, which shall commence from 21.1.2015 and the subsequent instalments shall become due on every Wednesday thereafter. The writ petition is disposed of accordingly. The connected miscellaneous petition is closed."

6. The arrears assessed by the Assessing Officer has not been disputed. The petitioner undertakes to pay the entire arrears along with interest in 24 equated weekly installments. Section 42 of the TNVAT Act provides that admitted taxes to be paid as directed by the Assessing Authority either in full or as permitted in installments. Since the demand is to the tune of Rs.46 crores and inview of the submission made by the learned Additional Government Pleader, the following order is passed:

"There shall be a direction to the petitioner to pay the entire arrears along with interest in 20 equated weekly installments on every Wednesday which shall commence from 14th of October 2015. This concession will not exist if the petitioner violates any of the conditions."

7. Writ petition is disposed of accordingly. Consequently, connected miscellaneous petition is closed. No costs.

-Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

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To

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

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Commercial Taxes CT Large Tax Payers Unit
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Managing Director.

+1 cc to Mr.J.Ravidran,Advocate(sr.54714)
+1 cc to spl.Government Pleader(sr.54220)

W.P.No.30496 of 2015

TEJ(co)
cp 09/10/2015