IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.06.2015

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.8093 of 2015 and
M.P.No.1 of 2015

M/s.Lenovo India (P) Ltd.,
222, TTK Road, Alwarpet, Chennai-18
Rep. by Director - Legal
and Company Secretary. ... Petitioner

Vs.

The Assistant Commissioner (CT)
Mylapore Assessment Circle,
No.46, Greenways Road,
Chennai - 600 028. ... Respondent

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records of the respondent in CST No.838585/06-07 and quash the proceedings dated 12.3.2015 issued therein

For Petitioner : Ms.Hema Muralikrishnan
For Respondent : Mr.V.Haribabu, AGP (Taxes)

O R D E R

Heard the learned counsel appearing for the petitioner and Mr.V.Haribabu, learned Additional Government Pleader (Taxes) for the respondent.



2.The writ petition is filed by M/s Lenova India (P) Limited, challenging the demand notice dated 12.03.2015, issued by the Assistant Commissioner (CT), Mylapore Assessment Circle, the respondent herein in CST No.838585/06-07.

3. The learned counsel for the petitioner would submit that serious error had crept in, in demanding payments for the assessment years 2006-07 to 2013-14 under the CST ACT, in respect of which, assessment orders have already been quashed by this Court. In support of the said contention, the learned counsel for the

petitioner has drawn the attention of this Court to the order dated 16.02.2015 made in W.P.No.3846 of 2013 in respect of assessment year 2012-13. The learned counsel has also submitted that in respect of the assessment years 2006-07, 2007-08, 2009-10 and 2010-11, W.P.Nos.8511 to 8514 of 2015 were filed and in respect of assessment year 2008-09, W.P.No.8471 of 2015 was filed and in respect of assessment year 2011-12, W.P.No.3845 of 2013 was filed and the respective assessment orders were quashed by this Court one such order dated 25.03.2015 has been produced before me.

4. At this juncture, it is necessary to extract below the relevant portion of the order dated 16.02.2015 in W.P.No.3846 of 2013:

> "4.The petitioner having received this notice filed their objections on 03.09.2014. The authority while passing the impugned order dated 28.11.2014 for the assessment year 2012-13 has ignored the exemption claimed on stock transfer for the aforesaid amount and proceeded to levy tax on the entire amount and the entire liability has been foisted on the petitioner which is illegal.
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> 5.With regard to the balance amount, the petitioner filed form 'F' which has not been taken into account and the same has not been considered by the authority. The petitioner in letter dated 03.09.2014 has stated that they have filed declaration form for the balance amount and the same has not been considered by the Authority and a proposal to levy tax at 14.5% at stock transfer proceedings for non-submission of declaration in form 'F' may be dropped. The assessing Officer by the impugned order dated 28.11.2014 has passed an order even without reference to the letter dated 03.09.2014 along with the form 'F' submitted by the petitioner. Copy of the letter delivery book dated 15.09.2014 and 29.05.2014 is produced before this Court. Unfortunately, the entire amount of tax have been levied.
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> 6.Hence, the impugned order is set aside. The petitioner shall be given a personal hearing and the authority shall take into account the additional objections, if any to be filed by the petitioner. After affording an opportunity of personal hearing to the petitioner and considering the additional objections, if any, filed by the petitioner, the respondent shall pass orders on merits and in accordance with law. Petitioner shall appear before the authority for personal hearing on 16.03.2015.

5. Admittedly, when this Court had already set aside the assessment orders in respect of the above assessment years, prima-facie, the respondent ought not to have passed the impugned order. Therefore, the impugned order is set aside and the writ petition is allowed.

6. Since, this Court while setting aside the assessment order dated 28.11.2014 in respect of the assessment year 2012-13, granted liberty to the respondent to pass orders afresh after providing personal hearing to the petitioner, the said liberty remains unaltered.

No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To
The Assistant Commissioner (CT)
Mylapore Assessment Circle,
No.46, Greenways Road,
Chennai - 600 028.

+1cc to M/s. L. Murali Krishnan, Advocate, S.R.No.26593

+1cc to the Government Pleader, S.R.No.26972

AP(CO)
EU(03/08/2015)