IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 01.12.2016

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.24573 of 2016

and

W.M.P.No.20984 of 2016

M/s.Stanes Motors (South India) Ltd.,
represented by its Director,
1596, Trichy Road,
Coimbatore - 641 018. ..Petitioner

/vs/

The Assistant Commissioner (CT),
Trichy Road Assessment Circle,
Coimbatore. ..Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of writ of Certiorari, calling for the records of the respondent in his proceedings in TNGST No.1880007/1992-93 to 1997-98, quash the notice dated 02.06.2016 issued therein.

For Petitioner : Mr.R.L.Ramani
Senior Counsel
for Mr.B.Raveendran

For Respondent : Mr.S.Kanmani Annamalai
Additional Government Pleader (Taxes)

O R D E R

Heard Mr.R.L.Ramani, learned Senior Counsel appearing for Mr.B.Raveendran, learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Taxes) appearing for the respondent.

2.In this writ petition, the petitioner has challenged a notice issued by the respondent dated 02.06.2016. This notice is a sequel to an earlier order passed by this Court in W.P.Nos.2965 to 2970 of 2010. Initially, these writ petitions were disposed of by an order dated 22.03.2010. The revenue filed review applications to review the order in Rev.Appl.Nos.140 to 145 of 2010. These review applications were allowed by order dated 27.01.2016, the order passed in the writ petition dated 22.03.2010 was recalled and the writ petitions were restored to the file of this Court to be heard and decided afresh. Subsequently, the writ petitions themselves were heard and by a common order dated 06.04.2016 were disposed of by issuing certain directions. The operative portion of the order and direction reads as follows:

> "7.This Court, considering the above submissions and the facts and circumstances of the case, direct the respondent to consider the petitioner's applications/representations for refund of the excess entry tax paid. The respondent is directed to conduct enquiry into the matter, after affording an opportunity of personal hearing to the petitioner, in which, the petitioner is entitled to place all records to the satisfaction of the Assessing Officer. In the event of the Assessing Officer coming to the conclusion that the petitioner is entitled to refund, for adjusting the tax payable under the TNGST Act, appropriate orders shall be passed within a period of eight weeks from the date of receipt of a copy of this order."

3.In terms of the above direction, the respondent was to consider the petitioner's application/representation for refund of the excess entry tax paid and the respondent was directed to conduct an enquiry in the matter after affording an opportunity of personal hearing to the petitioner and the petitioner is entitled to place all the records to the satisfaction of the Assessing Officer.

4.Pursuant to the direction, the impugned notice has been issued. The respondent cannot be faulted for having issued the impugned notice in the light of the orders passed by this Court but the impugned notice has been challenged by the petitioner on the ground that certain information and records sought for are impossible of compliance. The respondent has sought for the following records:

1) Copies of Monthly returns filed under TNGST Act 1959 and Entry Tax Act 1990 for the period from 1992-93 to 1997-98.

2) Xerox Copies of Assessment orders, passed during the period from 1992-93 to 1997-98 under the above Two Act.

3) Details of Payments of Tax and Entry Tax for the above period/year wise/separately.

4) Detailed stock inventory details for the arrival/Receipt of Motor Vehicle, from other States, sale of vehicle, with opening & closing stock details both in Numbers and value for the above period/year-wise/separately.
Details of Stock Inventory year-wise

	No	Value
Opening Stock:		
ADD		
Purchase		
Total		
Less:		
Closing Stock		
Net Purchase Value/No.		
Sales		

5) Copies of your earlier Application letter in this regard/year-wise/separately.

6) Any other support recorded evidence if any.

5.The learned senior counsel appearing for the petitioner, on instructions, submitted that in so far as Sl.Nos.2, 3 and 5, the petitioner would be able to comply with. However, the monthly returns are not in possession of the petitioner since they relate to the period 1992-93 to 1997-98. Similarly, it is submitted that the details of stock inventory, etc in Sl.No.4 cannot be culled out now and those details were considered while passing the assessment orders.

6.In the light of the above, there will be a direction to the petitioner to produce the documents in Sl.Nos.2, 3 and 5 and based on those documents, the respondent shall enquire into the matter by affording an opportunity of personal hearing to the petitioner and pass a reasoned order on merits and in accordance with law within a period of four weeks from the date of receipt of a copy of this order.

7.With the above direction, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

The Assistant Commissioner (CT),
Trichy Road Assessment Circle,
Coimbatore.

W.P.No.24573 of 2016
and
W.M.P.No.20984 of 2016

GMI(CO)
KP(06.01.2017)