IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.12.2016

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THE HONOURABLE MR. JUSTICE RAJIV SHAKDHER

W.P.Nos.2799 and 2800 of 2016

and WMP Nos.2330 and 2331 of 2016

M/s. Ramco Industries Ltd
Rep. by its Chief Executive Officer,
No.98/A, Dr.Radhakrishnan Salai,
Chennai-600 004. .. Petitioner in both the writ petitions

Vs

The Commercial Tax Officer,
Thiruvallikeni Assessment Circle,
Chennai-600 028. .. Respondent in both the writ petitions

Prayer in W.P.No.2799 of 2016 : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records of the respondent in his proceedings in CST / 791158 / 2014-15, quash the assessment order dated 31.12.2015 made therein.
Prayer in W.P.No.2800 of 2016 : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records of the respondent in his proceedings in CST / 791158 / 2014-15, quash the assessment order dated 21.01.2016 made therein.

For Petitioner : Mr.Ramani, Senior Counsel for M/s.B.Raveendran
For Respondent : Mr.S.Kanmani Annamalai, Addl. Government Pleader

COMMON ORDER

1. These are two writ petitions filed to assail the Assessment Order dated 31.12.2015, and the Rectification Order dated 21.01.2016.

1.1. The Assessment Order is assailed via W.P.No.2799 of 2016, while the rectification order is challenged via

W.P.No.2800 of 2016.

2. The captioned writ petitions came up for hearing before this Court on 29.01.2016. At that stage, the petitioner conveyed to the Court, via its counsel, that even though, all statutory forms and documents for the Assessment Year (in short 'AY') in issue, i.e., A.Y. 2014-2015, were submitted, the respondent had refused to accept the same.

2.1. Accordingly, this Court, while, permitting the petitioner to submit the relevant statutory forms and documents to the respondent on 10.02.2016, granted interim stay for a period of four weeks.

3. Mr.Ramani, Senior Advocate assisted by Mr.B.Raveendran, who appears for the petitioner, concedes that even now all statutory forms and documents have not been submitted, though, the petitioner did appear before the respondent on 10.02.2016, and submitted some statutory forms and documents.

3.1. Learned counsel, therefore, submits that further time be granted to submit necessary statutory forms and documents, as these were being received, virtually in instalments by the petitioner.

4. Broadly, the controversy in the matter appears to be pivoted around the following issue : the petitioner claims that he should be permitted to avail of concessional rate of tax, at the rate of 2%, on inter-state sales against production of C Forms.

4.1. Furthermore, the petitioner claims exemption on stock transfers, export sales, penultimate sales before export and transit sales, on submission of Form F.

4.2. There is also an issue, with regard to the difference in sales figures, as reflected in the audit report, which is reflected in Form WW, as against figures returned in the monthly returns.

4.3. The petitioner says that he has adequate explanation for the difference in the figures.

4.4. It is, on account of these factors that the petitioner is aggrieved by the impugned Assessment Order and the Rectification Order, passed by the respondent; which has, inturn, led to the institution of the instant writ petitions.

5. Mr.Kanmani Annamalai, who appears for the respondent, says, if, the relevant C Forms and H Forms are filed and the difference in the figures appearing in the audit report (as available in the form WW and the monthly returns) is explained, the respondent could pass a fresh Assessment Order.

6. Accordingly, the writ petitions are disposed of, with the following directions :

6.1. The Assessment Order dated 31.12.2015, and the Rectification Order dated 21.01.2016, are set aside with liberty to the petitioner to file all relevant statutory forms, i.e., C Forms and H Forms, within a period of three weeks, from today.

6.2. The petitioner will also have liberty to explain the difference in the turnover figures as appearing in Form WW, as against that, which, it obtains in the monthly returns.

6.3. For the aforementioned purpose, the petitioner's representative will appear before the respondent on 18.01.2017 at 11.00 a.m. If, the aforesaid date is not convenient to the respondent, he will fix another date, which will be proximate to the date fixed hereinabove.

6.4. The respondent, will, thereafter, pass a fresh assessment order, after taking into account, the material filed and the explanation given, with regard to the difference in figures, as adverted to above.

6.5. The needful will be done by the respondent, within a period of eight (8) weeks from the date of receipt of the copy of the order.

6.6. Resultantly, the captioned writ petitions and all pending applications are closed. There shall, however, be no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

The Commercial Tax Officer,
Thiruvallikeni Assessment Circle,
Chennai-600 028.

+1cc to Mr.B. Raveendian, Advocate, S.R.No.73060
+1cc to the Special Government Pleader (Taxes, S.R.No.73047

ug(CO)
md(05/01/2017)

W.P.Nos.2799 and 2800 of 2016