IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2016

CORAM:

THE HON 'BLE MR. JUSTICE T.S.SIVAGNANAM

Writ Petition No.33653 of 2016
and W.M.P.No.29024 of 2016

M/s Bhansali Boron Derivatives Ltd.,
Rep.by its Director Mr.K.Deepak Mehta,
80-B, Phase II, SIPCOT Industrial Estate,
Ranipet 632 403. ..Petitioner

/vs/

The Assistant Commissioner(CT)
Ranipet (SIPCOT) Assessment Circle,
17C, M.F.Road, Navalpur,
Ranipet, 632 401. ..Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, seeking for Writ of Certiorari, to call for the records on the files of the respondent proceedings in TIN/33694363063/2013-14 dated 30.08.2016 and quash the same being violated the principles of natural justice, illegal, invalid and against the law and also law laid down by this Honourable Court.

For Petitioner : Mr.D.Vijayakumar

For Respondents : Mr.S.Kanmani Annamalai, AGP

O R D E R

Heard Mr.D.Vijayakumar, learned counsel appearing for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader, who accepts notice on behalf of the respondent. By consent, the writ petition itself is taken-up for final disposal.

2. The petitioner is a registered dealer on the files of the respondent under provision of the Tamil Nadu Value Added Tax, Act 2005 and the challenge in this writ petition, is to an order of assessment under the said Act for the year 2013-14. The petitioner had earlier filed a writ petition before this Court in W.P.No.5580 of 2015 challenging the reversal of input tax credit as done by the respondent. The said writ petition was disposed of by order dated 17.3.2015 by directing

the petitioner to produce all the relevant documents before the Assessing Officer concerned within a period of 60 days from the date of personal hearing.

3. The petitioner filed the required details before the Assessing Officer on 14.05.2015 and the same were verified, apart from the details which include invoices in original, monthly return copies, tax paid details of the dealers at other end, details of movement of stock, details of payment of proceeds through bank, stock details and stock register. The petitioner also produced a copy of Annexure II of two dealers whose names were mentioned in the pre-revision notice. Though the respondent has mentioned about all the documents produced by the petitioner, curiously enough, in the last paragraph of the impugned order, the respondent has stated that the petitioner has not produced the details. It is rather surprising to note as to how the respondent could have taken such a stand, which is inconsistent with the preceding paragraph of the impugned order. That apart, the petitioner cannot be directed to produce a certificate from the other end dealers' assessment circle.

4. It is pointed out by the learned counsel for the petitioner that one of the two dealers namely Tvl.Sha Kamal Chand is registered on the file of the respondent. Therefore, nothing prevented the respondent to verify the details from the files maintained by them and the petitioner cannot be directed to produce a certificate from the other end dealers' assessment circle. Therefore, the impugned order is an out-come of a total non- application of mind.

5. Hence, the writ petition is allowed, the impugned order is set aside, the penalty levied is canceled and the matter is remitted back to the respondent for fresh consideration, who shall verify the documents produced by the petitioner and redo the assessment in accordance with law. In the light of the fact that the petitioner produced all documents, the question of levying any penalty will not arise and this Court has quashed the proposal to penalty. Therefore, the assessment shall be re-done only with regard to the input tax credit claim alone. No costs. Consequently, connected WMP is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

The Assistant Commissioner(CT)
Ranipet (SIPCOT) Assessment Circle,
17C, M.F.Road, Navalpur,
Ranipet, 632 401.

+1cc to Mr.D. Vijayakumar, Advocate, S.R.No.54618
+1cc to the Government Pleader, S.R.No.54705

KGK(CO)
EU(07/10/2016)

W.P.No.33653 of 2016