IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.10.2016

C O R A M

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

W.P.No.35025 of 2016 & WMP.No.30198 of 2016

Titan Company Limited
Represented by its
Group Manager - Taxation
P.Manivanan .. Petitioner

Versus

The Assistant Commissioner (CT)
Hosur (North) Assessment Circle
Bangalore Road, Hosur - 635 126
Krishnagiri District. .. Respondent

Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorari to call for impugned proceedings of the Respondent in CST Noi.447297/2014-15 dated 19.09.2016 and quash the same.

For Petitioner ... Mr.R.Raghavan
For Respondent ... Mr.K.Venkatesh,
Govt.Advocate

ORDER

Heard the learned counsel for the petitioner and the learned Government Advocate, accepting notice for the respondent. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner is a manufacture cum dealer in jewellery/watches and spectacles, registered on the file of the respondent under the Tamil Nadu Value Added Tax Act 2006 (hereinafter called the TNVAT Act)
and the Central Sales Tax Act 1956 (hereinafter called the CST Act).

3. In this writ petition, the petitioner has challenged the order of assessment dated 19.09.2016 under the CST Act for the year 2014-2015. The objection raised by the petitioner is that the impugned order has proceeded beyond the scope of notice dated 13.01.2016 and has reversed the input tax credit under different heads without any such proposal in the notice dated 13.01.2016.

4. On a perusal of the notice dated 13.01.2016 and when compared with the impugned assessment order, it is evidently clear that, there is no proposal for reversal of input tax credit under Sections 19(5)(c), 19(4)(i), 19 (2)(v), 19(5)(a), 19(8) of the TNVAT Act, 2006. The Assessing Officer committed a grave mistake in completing the assessment in the manner done without any proposal. This is sufficient to interfere with the impugned order. However, since, in the impugned order, it is stated that so far as the inter-State sales covered by C declaration Forms, the petitioner has given relief, to that extent the impugned order should be confirmed.

5. Accordingly, the writ petition is partly allowed and the impugned order is quashed, in so far as it relates to the findings where no proposal was made in the show cause notice dated 13.01.2016, with liberty to the respondent to issue a fresh notice, by giving full particulars as to why he proposes to reverse the input tax credit and the petitioner should be granted 15 days' time to submit their objections to the notice and thereafter, after affording an opportunity of personal hearing, re-do the assessment under all other heads except the head, under which, the petitioner has been granted relief in the impugned order of the assessment. No costs. Consequently, the connected miscellaneous petition is closed.

-SD/-
ASSISTANT REGISTRAR

/TRUE COPY/

SUB ASSISTANT REGISTRAR

To

Assistant Commissioner (CT)
Hosur (North) Assessment Circle
Bangalore Road,
Hosur - 635 126
Krishnagiri District.

+1 C.C MR.M.MURALI, ADVOCATE SR.NO.57265
+1 c.c. SPECIAL GOVT. PLEADER SR.NO.57066

W.P.No.35025 of 2016 and
W.M.P.No.30198 of 2016

MMP 22.10.2016
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