IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.10.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.37758 of 2016 and

W.M.P.No.32362 of 2016

Concorde Motors(India) Limited,
rep.by its Unit Head
No.42, Velachery Road,
Guindy, Chennai-600 032 ... Petitioner

Vs

1.The Deputy Commissioner(CT),
Large Taxpayers Unit,
No.34, Dugar Towers,
5th Floor, Marshalls Road,
Egmore, Chennai-600 008

2.The Joint Commissioner of Commercial Taxes
(Appeals),
3rd Floor, PAJPM Buildings,
Greams Road, Chennai-600 006.

3.Commissioner of Commercial Taxes,
Chepauk,
Chennai-600 005.

4.Government of Tamil Nadu,
rep.by its Secretary,
Commercial Taxes Department,
Fort St.George,
Chennai-600 009 ... Respondents

Writ Petition has been filed under Article 226 of the Constitution of India to issue Writ of certiorari to call for the records relating to impugned notice in TIN 33690962728/2013-14, dated 24.10.2016, issued by the first respondent and quash the same.

For Petitioner : Mr.A.Lawrence & R.Charulatha

For Respondents :Mr.S.Kanmani Annamalai,A.G.P.

ORDER

Heard Ms.R.Charulatha, the learned counsel for M/s.Lakshmi Kumaran Associates, for the petitioner and Mr.S.Kanmani Annamalai, the learned Additional Government Pleader, who accepts notice on behalf of the respondents and with the consent of either side, the writ petition itself is taken up for final disposal.

2. The petitioner is before this Court challenging the notice issued by their assessing officer, viz., the first respondent herein, dated 24.10.2016, calling upon them to pay tax for the assessment year 2013-14, under the provisions of the Tamil Nadu Value Added Tax Act, 2006.

3. As against the assessment order, dated 12.11.2015, the petitioner has filed an appeal before the second respondent and the appeal has been taken on file in A.P.No.52 of 2016. Along with the appeal, the petitioner filed a stay petition before the second respondent in S.P.No.38/2016 and an order of stay was granted for a limited period and before the expiry of the order of stay, the petitioner filed an application for extension of stay, on 29.9.2016. This application was pending before the second respondent and while so, the appeal itself has been heard and the second respondent has reserved orders, on 25.10.2016. In such circumstances, the first respondent cannot call upon the petitioner to pay the tax and it goes without saying that the order of stay shall enure in favour of the petitioner till orders are passed by the second respondent. Hence, the impugned order, for the present, cannot be enforced and accordingly it is set aside, leaving it open to the first respondent to proceed in accordance with law, after the order is passed by the second respondent.

4. The writ petition is allowed. No costs. Connected miscellaneous petition is closed. The learned additional Government Pleader is directed to communicate this order to the first respondent.

Sd/-
Asst.Registrar (CS IV )

/true copy/

Sub Asst. Registrar

To

1.The Deputy Commissioner(CT),
Large Taxpayers Unit,
No.34, Dugar Towers,
5th Floor, Marshalls Road,
Egmore, Chennai-600 008

2.The Joint Commissioner of Commercial Taxes (Appeals),
3rd Floor, PAJPM Buildings,
Greams Road, Chennai-600 006.

3.Commissioner of Commercial Taxes,
Chepauk,
Chennai-600 005.

4.The Secretary, Government of Tamilnadu,
Commercial Taxes Department,
Fort St.George,
Chennai-600 009

+1 cc to Mr.Lakshmikumaran,advocate,sr.61472

+1 cc to Government Pleader,sr.61540.

nmi(co)
krd 21/11

W.P.No.37758 of 2016