In the High Court of Judicature at Madras

Dated : 01.12.2016

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.42187 & 42188 of 2016
and WMP.Nos.36092 and 36093 of 2016

M/s.Luk India Pvt. Ltd.,
rep.by its Manager ...Petitioner

Vs

The Assistant Commissioner (CT),
Hosur South, Hosur. ...Respondent

PETITIONS under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari

(i) to call for of the proceedings of the respondent dated 14.10.2016 in CST No.673876/2014-2015, quash the same and direct the respondent to grant the petitioner reasonable time to produce the statutory forms required to be submitted for the year 2015-2016 (WP.No. 42187 of 2016); and

(ii) to call for the records of the proceedings of the respondent dated 8.11.2016 in CST No.673473/2007-2008, 11-12, 13-14 and 14-15, quash the same and direct the respondent to grant the petitioner reasonable time to produce the balance statutory forms required to be submitted for the year 2014-2015 (WP.No.42188 of 2016).

For Petitioner : Mr.Adithya Reddy
For Respondent : Mr.K.Venkatesh, GA

COMMON ORDER

Mr.K.Venkatesh, learned Government Advocate accepts notice for the respondent. Heard both. By consent, the writ petitions are taken up for joint disposal.

2. The petitioner is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 and the Central Sales Tax Act, 1956. In these writ petitions, the petitioner challenges the order of assessment dated 14.10.2016 passed under the provisions of the Central Act for the year 2014-15 and a recovery notice dated 8.11.2016.

3. The recovery notice is based upon an order of assessment, which was passed on 30.5.2016 where the balance tax payable was quantified at Rs.18,65,89,966/-. Subsequently, the petitioner submitted C-Forms, which have been considered by the respondent and revised orders of assessment have been passed and the liability got reduced to Rs.9,00,03,719/- vide order dated 14.10.2016. But, without reference to the order dated 14.10.2016, the recovery notice dated 8.11.2016 has been issued. This is sufficient to hold that the impugned order for recovery of tax is not tenable.

4. After receipt of the recovery notice dated 8.11.2016, the petitioner sent a representation dated 10.11.2016 furnishing additional C-Forms, followed by another representation dated 9.11.2016 wherein the petitioner offered to produce some more C-Forms. Even on 16.11.2016, the petitioner produced some more C-Forms. But, the respondent declined to accept them.

5. The circular issued by the Principal Secretary and Commissioner of

Commercial Taxes instructs the Assessing Officers to accept the C-Forms and any delay in submitting the C-Forms cannot be a ground to reject the same. In fact, this circular was issued pursuant to the decision of the Hon'ble Division Bench of this Court in the case of ***State of Tamil Nadu Vs. Arul Murugan and Company [reported in (1984) 51 STC 381].*** Considering the facts and circumstances of the case, there may not be any necessity to set aside the order dated 14.10.2016, since the respondent cannot refuse to accept the C-Forms, which the petitioner has now produced.

6. Therefore, while setting aside the demand dated 8.11.2016, there will be a direction to the respondent to accept the C-Forms produced by the petitioner and redo the assessment in accordance with law.

7. The writ petitions are accordingly disposed of. No costs. Consequently, the above WMPs are closed.

01.12.2016

Internet : Yes

To
The Assistant Commissioner (CT), Hosur South, Hosur.

RS

T.S.SIVAGNANAM,J

RS

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WMP.Nos.36092 & 36093 of 2016

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