IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.09.2016

CORAM:

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

Writ Petition No.23885 of 2004

and W.M.P.No.28975 of 2004

NEPC India Limited,
36 Wallajh Road,
Chennai 600 002. .. Petitioner

-Vs-

1.The Commercial Tax Officer,
Chepauk Assessment Circle,
Chennai 600 005.

2.The Tamil Nadu Sales Tax Appellate Tribunal,
Main Bench,
Chennai 600 001. .. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari calling for the records of the 1st respondent in notice dated 30.07.2004 and quash the same.

For Petitioner : Mr.V.Anil Kumar
For Respondents : Mr.K.Venkatesh
Government Advocate

ORDER

Heard Mr.V.Anil Kumar, learned counsel for the petitioner and Mr.K.Venkatesh, learned Government Advocate appearing for the respondents.

2. This writ petition has been filed challenging the notice issued by the respondent for recovery of arrears of sales tax for the period 1995-96, 1996-97, 2000-2001, 2001-2002 and 2002-2003 under the provisions of the TNGST Act. The main ground on which, the impugned order has been challenged by the petitioner by contending that the appeals are pending before the appellate Tribunal as against the assessment orders. Therefore, pending disposal of the same, coercive action should not been initiated for recovery of the tax and penalty.

3. Learned counsel appearing for the petitioner is not readily able to inform the Court as to whether the appeals have been disposed of by the appellate authority. The learned counsel appearing for the petitioner would further submit that the appeals are pending in respect of 1995-96 and 1996-97 and sofar as the other two assessment years are concerned one of the dues have already been settled and in respect of the other, the petitioner claims that substantial amount of refund is due and payable by the Government to the tune of Rs.89,142/-.

4. The learned Government Advocate also has no instruction, since the respondent officer has not given any written instructions, though notices have been served and they entered appearance through counsel. Record of the proceedings would show that while entertaining this Writ Petition, this Court has granted interim stay on 20.08.2004 and this has continued to remain in force for nearly 12 years. Therefore, this Court proposes to dispose of the writ petition with the following observations/ directions:

1. If the appeals are pending before the appellate authority then the impugned notice shall remain stay till the disposal of the appeal.

2. If the appeals have already been disposed of, then no further orders are required in this writ petition.

5. This Writ petition is disposed of with the above observations/directions leaving it open to the petitioner to workout his remedy in terms of the provisions of the Act. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

vsm/ari

To

1. The Commercial Tax Officer,
Chepauk Assessment Circle,
Chennai 600 005.

2.The Tamil Nadu Sales Tax Appellate Tribunal,
Main Bench,
Chennai 600 001.

+1 CC to Mr. S.R. Raghunahan, Advocate Sr.No.50990
+1 CC to Special Govt., Pleader, Taxes Sr.NO.50635

W.P.No.23885 of 2004

TM (CO)
MD : 22/09/2016