IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2016

CORAM

THE HON'BLE Mr. JUSTICE M.DURAISWAMY

W.P.No.6011 of 2016
and W.M.P.No.5337 of 2016

M/s.Zuari Cement Limited
(Formerly known as Sri Vishnu Cement)
Rayala Techno Park, 2nd Floor,
144/7, Rajiv Gandhi Salai,
(OMR) Road, Kottivakkam,
Chennai - 600 041. ... Petitioner

Vs.

1. The Joint Commissioner (CT),
Chennai (Central) Division,
No.1, Greams Road,
IV Floor, PAPJM Building,
Chennai - 6.

2. The Commercial Tax Officer,
Valluvarkottam Assessment Circle,
Chennai - 600 006. ... Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a writ of certiorari to call for the records of the 1st respondent in R.C.No.11534/2006/B8 and quash the notice dated 08.01.2016 passed therein.

For Petitioner : Mr.B.Raveendran
For Respondents : Mr.S.Kanmani Annamalai,
Addl Government Pleader (Tax)

O R D E R

The petitioner has filed the above Writ Petition to issue a writ of certiorari to call for the records of the 1st respondent in R.C.No.11534/ 2006/B8 and quash the notice dated 08.01.2016.

2.It is the case of the petitioner that for the assessment year TNGST 1993-94 already Tax Case (Revision) No.95 of 2015 was filed before this Court and the same is pending. Further, the petitioner submitted that on similar issues for the assessment year 1991-92 and 1992-93, the 2nd respondent passed the order and the same was challenged in W.P.Nos.11008 & 11009 of 2004 and by order dated 17.02.2011, both the orders were set aside and the matter was remanded to the 2nd respondent for passing fresh orders. Further, according to the petitioner, the 2nd respondent, who is not the Assessing Authority, issued the recovery notice even without passing any revised assessment order.

3.Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Tax) appearing for the respondents submitted that since the notice dated 08.01.2016 was issued by the Joint Commissioner (CT), the notice can be set aside for the reason that only the Assessing Officer can issue a notice demanding arrears of Sales Tax under TNGST. Further, the learned Additional Government Pleader submitted that liberty may be given to the Assessing Officer to issue fresh notice to the petitioner.

4.Having regard to the submissions made by the learned counsel on either side, taking into consideration that the impugned notice dated 08.01.2016 was issued by the Joint Commissioner (CT), who has no jurisdiction to issue the notice, the same is liable to be set aside. Accordingly, the notice dated 08.01.2016 is set aside. I give liberty to the Assessing Authority to issue fresh notice to the petitioner in accordance with law.

5.With these observations, the Writ Petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.
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-s/d-
Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

To
1. The Joint Commissioner (CT),
Chennai (Central) Division,
No.1, Greams Road,
IV Floor, PAPJM Building, Chennai - 6.

2. The Commercial Tax Officer,
Valluvarkottam Assessment Circle,
Chennai - 600 008.

+ 1 cc to Mr.B.Raveendran, Advocate, SR 15489
+ 1 cc to Spl.Govt.Pleader(Taxes), High Court, Madras SR 15538

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