IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2016

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.37256 of 2004
and
W.M.P.No.44713 of 2004

M.G.M. International Exports,
No.11, Muthupandian Avenue,
Santhome High Road,
Chennai - 600 004. .. Petitioner

Vs

The Commercial Tax Officer,
Royapuram Assessment Circle,
No.3, II Lane Beach,
Chennai - 600 001. .. Respondent

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the records of the respondent in its TNGST 1180831/2003-04 dated 25.10.2004 issued under Tamil Nadu General Sales Tax Act, 1959 and quash the same in so far as it is against the petitioner.

For Petitioner : Mrs.Lakshmi Sriram

For Respondent : Mr.Manoharan Sundaram
Additional Government Pleader

ORDER

Heard Mrs.Lakshmi Sriram, learned counsel appearing for the petitioner and Mr.Manoharan Sundaram, learned Additional Government Pleader appearing for the respondent and with their consent, this Writ Petition is taken up for final disposal.

2.The petitioner is a registered dealer under the provisions of the erstwhile Tamil Nadu General Sales Tax Act, 1959 (TNGST Act) and the Central Sales Tax Act, 1956 (CST Act). The petitioner is a dealer in superior kerosene oil and he import kerosene from outside the country effecting first sale in the State and interstate sales from Kerala and from Mangalore. The import is done via Cochin Port and Mangalore Port and are stored in the licensed storage tanks. The sale is effected from Cochin and Mangalore on interstate basis suffering Central Sales Tax remitted to Kerala and Karnataka Governments being the appropriate Governments having jurisdiction to assess the transaction falling under Section 6 of the Central Sales Tax Act, 1956. Apart from the above, the petitioner also effects stock transfers to Tamil Nadu and effects local sales. In this writ petition, the order impugned is the provisional assessment order dated 25.10.2004 for the period from June to July 2004. In fact for the same assessment year, the first respondent had passed two orders. Admittedly, the impugned order of provisional assessment has been passed after the year is over and therefore, the order has to necessarily be set aside. The subsequent development which this Court should take into account of is that the Assessing Officer during the pendency of the writ petition completed the assessment both under the TNGST Act as well as CST Act by passing orders of assessment dated 29.07.2015 and 29.01.2016 respectively.

3.In the light of the above, the writ petition is allowed and the impugned order is quashed. The fact that the assessments have been completed for the whole year by the assessment orders dated 29.07.2015 and 29.01.2016 is placed on record. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

The Commercial Tax Officer,
Royapuram Assessment Circle,
No.3, II Lane Beach,
Chennai - 600 001.

1 cc to Mrs.Lakshmi Sriram, Advocate, sr.39404
1 cc to Special Government Pleader, sr.39306

W.P.No.37256 of 2004 and W.M.P.No.44713 of 2004

sr co, kra 25.07.2016