IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.6.2016

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.29763 & 29764 of 2004
and
W.P.M.P.Nos.36157 and 36158 of 2004

M/s.Dozco(India) Pvt.Ltd.,
No.919, P.H.Road,
Chennai-600 084 ... Petitioner in both the writ petitions

Vs.

1. The Commercial Tax Officer,
   Kilpauk Assessment Circle,
   Chennai-600 094

2. The State of Tamil Nadu,
   rep.by the Secretary to Government,
   Department of Commercial Taxes
   and Religious Endowments,
   Fort St.George,
   Chennai-600 009 ... Respondents in both the writ petitions

Prayer in 29763 of 2016: Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of declaration, declaring that the provisions contained in Entry 22 (vii) of Part D of the First Schedule to the TNGST Act, 1959, as contained and classified in Entry.8/Part G of the First Schedule to the said Act during the period from 27.3.2002 to 30.06.2002 prescribing 20% rate of sales tax on sales of goods imported at Kolkata and from other places outside the State of Tamil Nadu stock transferred and sold in Chennai, are violative of Articles 14, 301 and 304 of the Constitution of India and therefore, void and unenforceable.

Prayer in 29764 of 2016: Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of declaration, declaring that the provisions contained in Entry 22 (vii) of Part D of the First Schedule to the TNGST Act, 1959, as contained and classified in Entry 9 of the Eleventh Schedule to the said Act with effect from 01.07.2002 prescribing 20% rate of sales tax on sales of goods imported at Kolkata and from other places outside the State of Tamil Nadu stock transferred and sold in Chennai, are violative of Articles 14, 301 and 304 of the Constitution of India, and therefore, void and unenforceable.

For Petitioner : Mr.B.Raveendran

For Respondents : Mrs.S.Kanmani Annamalai, Additional Government Pleader

COMMON ORDER

Heard Mr.B.Raveendran, learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader, for the respondents .

2. Though the prayer sought for in the writ petitions is very widely couched, the challenge itself is essentially to two pre-assessment notices, issued to the petitioner for the years 2002-03 and 2003-04. In my view, since the petitioner has come before this Court even at the stage of pre-assessment notice and the dispute involved in the writ petitions requires adjudication of facts, the petitioner has to necessarily submit their reply to the notices and contest the matter before the first respondent.

3. Faced with this situation, the learned counsel for the petitioner, on instructions, seeks four weeks' time to file objection before the first respondent and prays that the first respondent may be directed to consider the same in accordance with law.

4. In the light of the same, the writ petitions are disposed of directing the petitioner to submit their objections to the pre-assessment notices within a period of four weeks from the date of receipt of a copy of this order and the first respondent is directed to afford an opportunity of personal hearing to the petitioner, consider their objections and proceed in accordance with law. No costs. Connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

msk

To

1. The Commercial Tax Officer,
   Kilpauk Assessment Circle,
   Chennai-600 094

2. The Secretary to Government,
   Department of Commercial Taxes
   and Religious Endowments,
   Fort St.George,
   Chennai-600 009

+1cc to Mr.B.Raveendran, Advocate, S.R.No.35428
+1cc to the Special Government Pleader(T), S.R.No.35491

W.P.Nos.29763 & 29764 of 2004

MP(CO)
CA(13/07/2016)