IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated : 20.01.2017
Coram
THE HONOURABLE MR. JUSTICE RAJIV SHAKDHER
W.P.No.950 of 2017
and WMP No.953 of 2017

M/s.WOOSU Automotive India Pvt. Ltd.,
No.130, Narasingapuram Village,
Perambakkam, Thiruvallur Taluk and
District - 631 402, rep by its
Authorised Signatory S.Arulraj .. Petitioner

vs.

1. The Assistant Commissioner (CT),
Central Enforcement Wing-II,
Enforcement-II, Greams Road,
Chennai-600 006.

2. The Commercial Tax Officer,
Thirutani Assessment Circle,
Thirutani-631 209. .. Respondents

* * *

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records culminated in the second respondent's impugned Notice in TNVAT 33221722545/2014-15, dated 15.12.2016, and quash the same as illegal, and consequently, direct the second respondent to pass a fresh/revised assessing order in accordance with section 84 of the Act, by taking into consideration of the explanations offered and Industrial Inputs Certificated furnished by the petitioner.

* * *

For Petitioner : No Appearance

For Respondents : Mr.S.Kanmani Annamalai
Additional Government Pleader

ORDER

1. There is no appearance on behalf of the petitioner.

2. This writ petition is directed against the order dated 15.12.2016, passed by respondent No.2.

2.1. By virtue of the said order, the recovery proceedings have been initiated.

3. On the last date of hearing, i.e., 12.01.2017, when, notice was issued in the matter, I had made the following

observations. For the sake of convenience, the relevant portion of the observations made on 12.01.2017 have been extracted hereafter :

> "2. Counsel for the petitioner says that, respondent No.2, without disposing of the rectification petition, filed under Section 84 of the Tamil Nadu Value Added Tax Act, 2006, has proceeded to initiate recovery proceedings.
>
> 3. To be noted, the order impugned in the present proceedings is dated 15.12.2016, whereby, the arrears of tax, for Assessment Years (A.Ys) 2010-11 to 2015-16, are sought to be recovered.
>
> 4. Mr.S.Kanmani Annamalai says that he will obtain instructions.
>
> 5. Till the next date of hearing, the respondents shall maintain status quo qua recovery, as obtaining today (12.01.2017).
>
> 6. Re-notify the matter on 20.01.2017."

4. Mr.S.Kanmani Annamalai, learned Additional Government Pleader, has reverted with instructions. He says what was indicated on the last date of the hearing by the learned counsel for the petitioner is correct.

5. In view of the said submission made by Mr.Annamalai, the impugned order is set aside.

5.1. The respondent is directed, in the first instance, to deal with the rectification petition filed under Section 84 of the Tamil Nadu Value Added Tax Act, 2006. It is only after an order is passed in that behalf, that the respondent will take further steps in the matter, albeit, in accordance with law.

6. The captioned writ petition is disposed of in terms of the aforesaid direction. Resultantly, pending application shall stand closed. There shall, however, be no order as to costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Assistant Commissioner (CT),
   Central Enforcement Wing-II,
   Enforcement-II, Greams Road,
   Chennai-600 006.

2. The Commercial Tax Officer,
   Thirutani Assessment Circle,
   Thirutani-631 209.

+1 cc to Mr.R.Prabhakaran Advocate sr 4197
+1 cc to Special Government Pleader (T) sr 4028

W.P.No.950 of 2017

scd(co)
aa10/02/2017