IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.01.2017

Coram

THE HONOURABLE MR. JUSTICE RAJIV SHAKDHER

W.P.No.755 of 2017
and WMP No.787 of 2017

M/s.BSL Power Junction,
rep. by its Proprietrix Ms.B.Lakshmi,
No.7/113, Dr.Ambedkar Road,
100 feet road, Tharamani-Chennai,
Velacherry, Chennai-600 113. ...Petitioner

vs.

1. The Commercial Tax Officer,
Chromepet Assessment Circle,
No.117, Station Road,
Chromepet, Chennai-600 044.

2. The Assistant Commissioner (CT),
Velacherry Assessment Circle,
Chennai-600 061. ...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified Mandamus, or any other writ, or order, to call for the records of the first respondent in TIN No.33390945627/2013-14, dated 20.08.2015, and the consequential proceedings in VAT/33390945627/2014-15, dated 29.12.2016, quash the same and further direct the first respondent not to take any steps for assessment or collection of tax for assessment year 2013-14 since the petitioner being registered dealer on the file of the second respondent, filed returns and paid the entire tax and deemed assessment under Section 22(2) completed for the period 2013-14 before the second respondent and pass such further order or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

For Petitioner : Mr.V.Sundareswaran

For Respondents : Mr.K.Venkatesh,
Government Advocate

ORDER

1. Issue notice. Mr.K.Venkatesh, learned Government Advocate, accepts notice on behalf of the respondents.

1.1. With the consent of the learned counsels for the parties, the writ petition is taken up for hearing and final disposal.

2. This writ petition is directed against the order dated 29.12.2016.

3. The petitioner, being aggrieved, has approached this Court, via the instant writ petition.

4. It is the petitioner's case that both, the impugned ex-parte order dated 20.08.2015, which was served on the petitioner on 17.06.2016 and, the consequential recovery notice dated 29.12.2016, are unsustainable for the reason that the petitioner has filed his monthly returns for the relevant assessment year, i.e., Assessment Year 2013-2014.

5. Learned counsel for the petitioner says that the petitioner had effected purchase of batteries from Exide Industries Limited, which, in turn, was sold further to various customers, during the Assessment Year 2013-14.

5.1. It is the stand of the petitioner that its TIN registration was cancelled, without notice, during the Assessment Year 2013-2014 and thereupon, she applied to the Commercial Tax Officer, Velacherry Assessment Circle, for issuance of a fresh TIN.

5.2. The petitioner's stand, therefore, is that, all monthly returns have been filed and appropriate tax has been deposited with the Commercial Tax Officer, Velacherry Assessment Circle.

5.3. According to the petitioner, the respondent, who is the Commercial Tax Officer, Chromepet Assessment Circle, has not taken this fact into account, despite a rectification petition having been filed on 18.11.2016.

6. Mr.Venkatesh, who appears for the respondents, says that if, as contended by the petitioner, rectification petition is pending, the first respondent will dispose of the same.

7. Therefore, having regard to the aforesaid facts and circumstances, the first respondent is directed to hear the rectification petition dated 18.11.2016, and, after giving due opportunity to the petitioner, the first respondent will pass a speaking order and serve a copy of the same on the petitioner.

7.1. Pending disposal of the rectification petition, no coercive measures will be taken against the petitioner, pursuant to the order dated 20.08.2015 and 29.12.2016.

8. The captioned writ petition and the pending application are disposed of in terms of the aforementioned directions. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gg

To

1.The Commercial Tax Office,
Chrompet Assessment Circle,
117, station Road,
Chrompet, Chennai-600 044.

2.The Assistant Commissioner(CT),
Velacherry Assessment Circle,
Chennai.

+1cc to Mr.Sundareswaran, Advocate, S.R.No.2397
+1cc to the Government Pleader, S.R.No.2495

KJ(CO)
RS(06/02/2017)

W.P.No.755 of 2017
and WMP No.787 of 2017