IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2017

CORAM

THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER

W.P.No.560 of 2017

And

W.M.P.Nos.601 and 602 of 2017

Tvl.Triple Helex Industries
Represented by its Partner
Thiru S.Rajakumar ... Petitioner

Vs.

1 The State of Tamil Nadu
Rep. by its Secretary to Government
Department of Commercial Taxes & Registration
Fort St. George, Chennai - 600 009.

2 The Commissioner of Commercial Taxes,
2nd Floor, Ezhilagam,
Chepauk, Chennai - 600 005.

3 The Assistant Commissioner(CT)
Ranipet Assessment Circle (Sipcot)
Sipcot, Ranipet 632 403.
Vellore District. ... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records relating to the revision of Assessment orders passed by the 3rd respondent in his proceedings in CST 352931/2015-16 dt. 14.10.2016 received by the Petitioner on 5.12.2016 and letter CST 352931/15-16 dt. 22-12-2016 copy which was received by the petitioner on 27.12.2016 and quash the same and to direct the 3rd respondent to afford an opportunity of personal hearing and also direct the 3rd Respondent to lift the attachments of Bank account by the 3rd Respondent by the issue of the Form U notice in his letter to the Branch Manager Chennai in his letter CST 352931/15-16 dt 22.12.2016.

For Petitioner : Mr.A.S.Mujibur Rahman
For Respondents : Mr.K.Venkatesh
Government Advocate

O R D E R

1.Issue notice. Mr.K.Venkatesh, learned Government Advocate, accepts notice on behalf of the respondents. With the consent of the 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 14.10.2016 passed by the third respondent. By virtue of the impugned order, the petitioner has been called upon to pay after requisite adjustments, tax in the sum of Rs.60,37,225/-.

3.Counsel for the petitioner says that the impugned order is flawed for the following reasons:

3.1.Firstly, that against the proposal to levy tax, the petitioner had filed a letter dated 26.09.2016, seeking 30 days time to file 'C' Forms and Export documents. The impugned order would show that the respondent had granted only 15 days. Furthermore, the impugned order, according to the learned counsel, shows that the respondent claims that another 15 days were granted, albeit "upto 15.10.2016". According to the counsel for the petitioner, if, another 15 days would have been granted, then, the given time frame would have expired on 26.10.2016. Counsel says that in any event the impugned order was passed as indicated above on 14.10.2016.

3.2.Secondly, the petitioner takes the stand that, despite, having made a request on 14.12.2016 that the relevant 'C' Forms were available, albeit, after a notice of demand dated 02.12.2016 was issued, the request made was brushed aside by the respondents by issuing an attachment order dated 22.12.2016.

4.Counsel for the petitioner in support of his submissions relies upon the order dated 14.12.2016, passed in W.P.Nos.2799 and 2800 of 2016.

5.I have asked Mr.Venkatesh, who appears for the respondents that given the petitioner's claim that the original 'C' Forms and Export documents are available, could the assessment be redone after giving opportunity to the petitioner to present the same before respondent no.2.

6.Learned counsel says that there would be no difficulty in respondent no.2 re-doing the assessment after giving an opportunity to the petitioner to present the 'C' Forms and Export documents, in original.

7.Accordingly, the impugned orders are set aside. The petitioner will appear before the respondent no.2 on 31.01.2017 at 11.00 a.m. On the said date the petitioner will present the original 'C' Forms along with original Export documents, whereupon, respondent no.2, will pass a fresh order after hearing the petitioner's authorised representative. In case, the aforementioned date is not convenient to respondent no.2, he shall fix a fresh date after giving due written notice to the petitioner.

8.The writ petition is disposed of with the aforesaid directions. No costs. Consequently, pending applications are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1 The State of Tamil Nadu
Rep. by its Secretary to Government
Department of Commercial Taxes & Registration
Fort St. George, Chennai - 600 009.

2 The Commissioner of Commercial Taxes,
2nd Floor, Ezhilagam,
Chepauk, Chennai - 600 005.

3 The Assistant Commissioner(CT)
Ranipet Assessment Circle (Sipcot)
Sipcot, Ranipet 632 403.
Vellore District.

+1cc to Mr.M.Md.Ibrahim Ali, Advocate, S.R.No.1792
+1cc to the Spl.Government Pleader (Taxes), S.R.No.2111

kgk(CO)
md(30/01/2017)

W.P.No.560 of 2017 And
W.M.P.Nos.601 and 602 of 2017