IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2017

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THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER

W.P.No.2202 of 2017
And
W.M.P.No.2178 of 2017

Tvl.The PCK Buderus [India] Special P Ltd.,
Rep by its Director Mr.P.L.Chidamber ... Petitioner

Vs.

The Assistant Commissioner (CT),
Nandanam Assessment Circle,
No.46, Greenways Road,
Chennai – 28. ... Respondent

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records on the files of the respondent in CST No.638968/ 2010 - 11 dated 08.12.2016 quash the same being illegal, invalid, without jurisdiction and violated the principles of natural justice and contrary to the principle laid down by this Honourable Court.

For Petitioner : Mr.D.Vijayakumar
For Respondent : 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 respondent. With the consent of the learned counsels for parties, the writ petition is taken up for hearing and final disposal.

2.By virtue of the instant writ petition, challenge is laid to the order dated 08.12.2016, whereby, the petitioner has been called upon to pay tax in the sum of Rs.10,60,019/-.

3.The petitioner at the outset, submits that against the notice dated 23.11.2016, objections were filed, which are dated 05.12.2016 and that while passing the impugned order, the respondent has substantially accepted the objections and accordingly, calculated the tax. Therefore, learned counsel for the petitioner says that the petitioner's grievance is only confined to the failure to adjust excess tax paid in the sum of Rs.5,26,899/- in respect of which, a representation was made to the respondent, dated 19.01.2017.

4.I have put to Mr.Venkatesh, as to whether the representation made could be treated as a petition under Section 84 of the Tamil Nadu Value Added Tax Act.

5.Mr.Venkatesh, says that if a direction is issued, the respondent will consider the representation, as a petition filed under Section 84 of the Tamil Nadu Value Added Tax Act and thereafter, appropriate orders, will be passed, having regard to the assertions made therein.

6.Accordingly, the writ petition is disposed of, with a direction to the respondent to ascertain as to whether adjustment of Rs.5,26,746/- is called for against the tax demanded via, the impugned order dated 08.12.2016. For this purpose, the respondent will afford a personal hearing to the petitioner. The respondent will, thereafter, pass a speaking order; a copy of which, will be handed over to the petitioner. The needful will be done by the respondent, with due expedition, though, not later than six weeks from today. Pending decision on the petitioner's representation, there shall be stay on recovery of tax, as reflected in the impugned order, to the extent of the adjustment sought for by the petitioner, that is, a sum of Rs.5,26,746/-.

7.The writ petition is disposed of, in terms of the aforesaid directions. Consequently, the connected pending application is also closed. However, there shall be no order as to costs.

31.01.2017

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Index: Yes/ No Internet: Yes/ No

RAJIV SHAKDHER,J.
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To

The Assistant Commissioner (CT),
Nandanam Assessment Circle,
No.46, Greenways Road,
Chennai – 28.

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