IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2017

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.Nos.32800 and 32801 of 2017
and W.M.P.Nos.36133 and 36134 of 2017

WONJIN AUTOPARTS INDIA PVT.LTD.,
Rep.by its Manager - Finance
J.Maria Jeya Balan
Plot No.A1K, CMDA Industrial Complex
Maraimalai Nagar - 603 209 .. Petitioner in both W.Ps.

..Vs..

Assistant Commissioner (CT)
Chengalpet, Assessment Circle,
No.15B, 1st Floor, 1st Main Road,
Anna Nagar, Chengalpattu - 603 001. .. Respondent in both W.Ps.

Prayer in W.P.No.32800 of 2017: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the impugned proceedings of the respondent passed in TIN:33151603710/2013-14 dated 28.07.2015 and quash the same and further direct the respondent to re-do the assessment in accordance with the law after providing sufficient opportunity to the petitioner.

Prayer in W.P.No.32801 of 2017: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the impugned proceedings of the respondent passed TIN:33151603710/2013-14 dated 18.07.2015 and quash the same and further direct the respondent to re-do the assessment in accordance with the law after providing sufficient opportunity to the petitioner.

For Petitioner in both W.Ps. : Mr.N.Murali

For Respondent in both W.Ps. : Mr.S.Kanmani Annamalai
Additional Government Pleader

COMMON ORDER

Heard Mr.N.Murali, learned counsel appearing for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader for the respondent. With the consent on either side, the writ petitions are taken up for disposal.

2.The petitioner is a Private Limited Company incorporated under the Companies Act, 1956 and registered as a dealer, on the file of the respondent both under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (hereinafter mentioned as TNVAT Act) and the Central Sales Tax Act, 1956 (hereinafter mentioned as CST Act). The petitioner is before this Court challenging the assessment orders passed by the respondent dated 28.07.2015 and 18.07.2015 for the assessment years 2013-14. It is seen that the two assessment orders have been passed in respect of the same year.

3.The learned counsel for the petitioner would submit that the petitioner does not want to canvas the correctness of the impugned order before this Court, but prays for liberty being granted to file an appeal before the Appellate Authority. If the petitioner had filed an appeal before the appellate authority, as on date, the Appellate Authority would have rejected the appeal as being time barred, as he has no power to condone the delay beyond the period of sixty days. However, considering the fact that though the assessment orders came to be passed in the year 2015, the Department was unable to recover the tax and penalty as quantified in the impugned assessment order and the assessment order has remained as a paper order. Therefore, this Court is inclined to grant liberty to the petitioner to file an appeal, subject to certain conditions.

4. Accordingly, the writ petition is disposed by directing the petitioner to pay 25% of the disputed tax before the respondent within a period of three weeks from the date of receipt of a copy of this order. After effecting such payment along with the receipt/challan for payment, the petitioner is directed to file an appeal before the appellate authority enclosing a copy of this order and if such appeal is presented, the Appellate Authority shall entertain the appeal without reference to limitation and proceed further in accordance with law. However, if the petitioner fails to comply with the conditional order, the benefit of this order will not enure to the petitioner and the writ petition would stand automatically

dismissed without further reference to this Court. No costs. Consequently, connected Miscellaneous Petitions are also closed.

Sd/-
Assistant Registrar(CS-iv)

//True Copy//

Sub Assistant Registrar

dna/cse

To

The Assistant Commissioner (CT)
Ambattur Assessment Circle,
Station No.127, Yadhaval Street
Padi, Chennai 600 050.

+1cc to Mr.N.MURALI, Advocate, S.R.No. 90149 & 90150
+2cc to the Government Pleader, S.R.No. 90005

W.P.Nos.32800 and 32801 of 2017

TR(09/01/2018)