

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24-02-2017

Coram

THE HONOURABLE MR. JUSTICE RAJIV SHAKDHER

W.P.No.3388 of 2017

and W.M.P.No.3372 of 2017

M/s. Lucas TVS Ltd.,
Rep. by its Chief Financial Officer
11, Patullos Road
Chennai - 600 0202

.. Petitioner

Vs.

1. The Deputy Commissioner [CT]
Enforcement (Central)
No.1,Greams Road
Chennai -600 006
2. The Assistant Commissioner [CT]
Anna Salai II Assessment Circle
Chennai

.. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorari calling for the records of the first respondent in VAT Audit S.No.1/2016-17 and quash the proceedings dated 24-01-2017 issued therein and pass orders.

For Petitioner : Mr. R.L. Ramani, Sr.C. For
M/s. B. Raveendran

For Respondents : Mr. S. Kanmani Annamalai, Addl.G.P.

ORDER

1. On the first date of hearing, I had passed the following order:

"...2.Learned Senior Counsel appearing for the petitioner says that the impugned order dated 24.01.2017, has been passed by the Officer of the Enforcement Wing, without an assessment order being passed in the matter.

3.It is the submission of the learned Senior Counsel appearing for the petitioner that the alleged defects found during VAT inspection cannot become the basis of tax liability, without the Department going

through the process of assessment.

4. Issue notice. Mr.S.Kanmani Annamalai, learned Additional Government Pleader, accepts notice on behalf of the respondents.

4.1. Learned counsel says that he will revert with instructions in the matter or else will file a counter affidavit, before the next date of hearing.

5. I must indicate herein that Mr. Annamalai, has submitted before me that what has been stated as tax liability is not a demand but only an intimation.

6. Prima facie, in my view, such communication cannot be served by officers of the Enforcement Wing on the petitioner. However, this Court, will await the instructions, that Mr. Annamalai may receive, in this behalf, from the department.

7. Re-notify on 24.02.2017.

8. In the meanwhile, the operation of the impugned order dated 24.01.2017, is stayed...."

2. Mr. Kanmani Annamalai, learned Additional Government Pleader, today, has reverted with the instructions that the impugned order is only an intimation and no order of assessment has been passed in the matter.

3. Accordingly, I have no hesitation in setting aside the impugned order. The respondent, however, will have the liberty to proceed hereafter with the petitioner, in accordance with law.

3.1 In fine, the writ petition is allowed as above.

3.2 Consequently, the connected miscellaneous petitions shall stand closed.

3.3 However, there shall be no order as to costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

glp

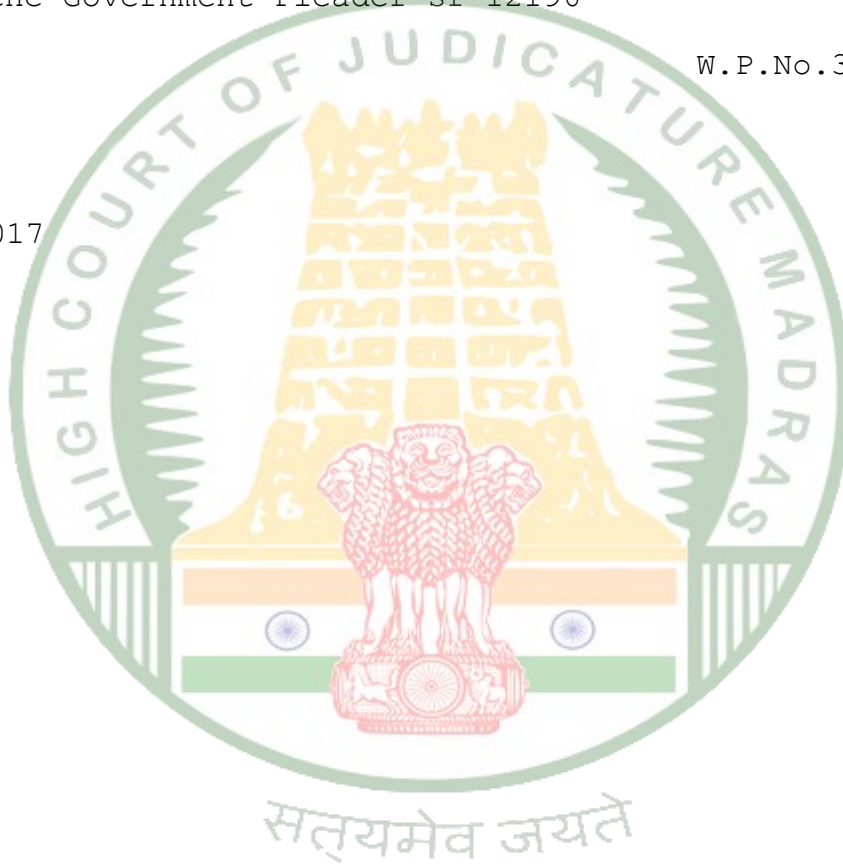
To

1. The Deputy Commissioner [CT]
Enforcement (Central)
No.1,Greams Road
Chennai -600 006
2. The Assistant Commissioner [CT]
Anna Salai II Assessment Circle
Chennai

+1 cc to M/s.Raveendran Advocate sr 12184
+1 cc to the Government Pleader sr 12196

W.P.No.3388 of 2017

mp (co)
aa22/03/2017



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