IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated : 24-02-2017
Coram
THE HONOURABLE MR. JUSTICE RAJIV SHAKDHER
W.P.No.3389 of 2017
and W.M.P.Nos.3373 and 3374 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.2/2016-17 and quash the proceedings dated Nil-02-2017 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.

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ORDER

1. In this writ petition, challenge is laid to an VAT Audit S.No.1/2016-17 dated Nil-02-2017.

1.1 On the first date of hearing, when this writ petition came up for hearing and this aspect was brought to the notice of the learned counsel for the respondent, he had indicated that this was only an intimation to the petitioner as to what could be the tax liability in the matter. In this context it would be necessary to note the observations made on 10-02-2017:

"...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 no assessment order had been passed in the matter.

3. Accordingly, I have no hesitation to set 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 petition 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.B.Raveendran Advocate sr 12185
+1 cc to the Special Government Pleader(T) High Court Madras sr 12196

W.P.No.3389 of 2017

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aa22/03/2017