IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01-02-2017

Coram

THE HONOURABLE MR. JUSTICE RAJIV SHAKDHER

W.P.No.2429 of 2017
and
W.M.P.Nos.2403 to 2404 of 2017

M/s. Dell International Services India Pvt. Ltd.,
Represented by its Authorized Signatory
Mr. Narendra B B, M-4 SIPCOT, Sriperumbudur,
Chennai - 602 106 ... Petitioner

Vs.

1.The Joint Commissioner (CT) Appeals
CT Annexe Building, 3rd Floor
Greams Road, Chennai - 600 006

2.The Deputy Commissioner (CT)-1
Large Tax Payer Unit, No.34
Marshalls Road, Egmore,
Chennai - 600 008 ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified Mandamus to call for the records pertaining to the impugned notice CST.977086/204-15 dated 18-01-2017 issued by the 2nd respondent and quash the same and further forbear the second respondent from initiating any coercive recovery action till the disposal of the appeal pending before the first respondent and pass orders.

For Petitioner : Mr. G. Derrick Sam
For Respondents : Mr. K. Venkatesh, Government Advocate

ORDER

W.M.P.No.2402 of 2017(dispense with)

Allowed, subject to just exceptions.

W.P.No.2429 of 2017 and W.M.P.Nos.2403 and 2404 of 2017

1. Issue notice. Mr. K. Venkatesh, learned counsel appearing for the respondents accepts notice on behalf of the respondents. With consent of the learned counsel for the parties, the writ petition is taken up for hearing and final disposal.

2. By virtue of the captioned writ petition, challenge is laid to the notice dated 18-01-2017. The impugned notice is a notice of demand seeking recovery of tax equivalent to Rs.16,57,47,615/-(Rupees Sixteen Crores Fifty Seven Lakhs Forty Seven thousand Six hundred and fifteen Only). The demand pertains to assessment year 2014-2015.

3. The basis of demand are two orders, that is, order dated 28-09-2016, which is the original order of assessment and order, dated 05-12-2016, which has been passed in exercise of revisionary powers.

4. Concededly, qua the aforementioned orders, separate appeals have been preferred by the petitioner, which are pending consideration before the Joint Commissioner (CT) Appeals. The copies of the appeals are appended at Page Nos.19 and 49 of the typed set of documents. The appeal against order, dated 28-09-2016 was apparently filed on 25-10-2016, while the appeal against order, dated 05-12-2016 was, I am told, lodged on 06-01-2016.

5. Mr. Venkatesh, learned Government Advocate appearing for the respondent says that he cannot, but, submit that pending consideration of the appeals, the demand notice could not have been issued, especially, in the circumstances, that the appeals were accompanied with applications for stay which are pending consideration.

6. To be noted, the petitioner's stand before me is, also that, 25% of the disputed tax has already been deposited with the concerned authority.

7. Having regard to the facts and circumstances of the case and the submissions advanced before me on behalf of the parties, I am inclined to agree with the learned counsel for the petitioner. Accordingly, the first respondent/the Joint Commissioner (CT) Appeals, is directed to dispose of the two appeals, pending consideration before him. Pending disposal of the appeals, it is directed that the impugned demand notice shall not be enforced against the petitioner.

8. The writ petition is disposed of, in terms of the aforementioned directions. The connected miscellaneous petitions shall stand closed. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

glp

To

1. The Joint Commissioner (CT) Appeals
CT Annexe Building, 3rd Floor
Greams Road, Chennai - 600 006

2. The Deputy Commissioner (CT)-1
Large Tax Payer Unit, No.34
Marshalls Road, Egmore,
Chennai - 600 008

+1cc to the Special Government Pleader(T), S.R.No.6366

W.P.No.2429 of 2017

CA(02/02/2017)