IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2017

CORAM

THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER

W.P.No.2515 of 2017
And
W.M.P.Nos.2481 to 2483 of 2017

M/s.Arvind Remedies Limited,
Rep. by its Managing Director
Dr.B.Arvind Shah ... Petitioner

Vs.

1 Assistant Commissioner (CT) (FAC)
Vepery Assessment Circle,
No.10, Greams Road,
Chennai - 600 006.

2 The Branch Manager
City Union Bank Ltd.,
No.14, J.N.Road, Opp.R.D.Office
Tiruvallur - 602 001. ... Respondents

Prayer:
Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records on the file of the 1st respondent in TIN:33650520527/2015-16 dated 28.10.2016 quash the same.

For Petitioner : Ms.R.Hemalatha
For Respondents : Mr.S.Kanmani Annamalai
Additional Government Pleader

O R D E R

1.Issue Notice. Mr.S.Kanmani Annamalai, learned Additional Government Pleader, accepts notice on behalf of the respondents. With the consent of the learned counsels for parties, the writ petition is taken up for hearing and final disposal.

2.By virtue of this writ petition, challenge is laid to the order dated 28.10.2016.

2.1.To be noted, the impugned order pertains to assessment year 2015-16.

2.2.The sole ground on which, the petitioner seeks to challenge the impugned order, for the moment, is that the impugned order assesses the petitioner provisionally under Section 25(1) of the Tamil Nadu Value Added Tax Act, 2006, whereas, it ought to have passed the final assessment order after the end of the said assessment year.

3.In support of this proposition, the learned counsel relies upon the judgment of the Division Bench dated 14.10.2009, passed in W.A.Nos.1412 and 1413 of 2009, titled: M/s.Jothi Malters (India) Pvt. Ltd., Vs. The Commercial Tax Officer.

4.Mr.Annamalai, who appears for the respondent says, he cannot, but submit that the submission made by the petitioner is covered by the view taken by the Division Bench in the aforementioned judgment.

5.Having regard to the submissions made by the counsel and upon perusal of the record, I am inclined to agree with the learned counsel for the petitioner.

5.1.Since, the assessment year had been completed, it was not open to the respondent to pass a provisional assessment order. Accordingly, the impugned order is set aside, with liberty to the respondent to pass a fresh assessment order.

6.The writ petition is, accordingly, disposed of. Consequently, the connected pending applications are also closed. However, there shall be no order as to costs.

s/d-
Assistant Registrar(CS-III)

// True Copy//

Sub-Assistant Registrar

To

1 Assistant Commissioner (CT) (FAC)
Vepery Assessment Circle,
No.10, Greams Road,
Chennai - 600 006.

2 The Branch Manager
City Union Bank Ltd.,
No.14, J.N.Road, Opp.R.D.Office
Tiruvallur - 602 001.

+1 CC to M/s. R. Hemalatha, Advocate sr 6745
+1 CC to Spl. Govt. Pleader sr 6638

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