IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.08.2017

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P.No.15779 of 2017
and WMP.No.17064 of 2017

M/s.E.I.D. Parry (India) Limited,
Rep. by its Authorized Signatory,
Mr.L.Jayaprakash,
"Dare House",
No.234, N.S.C. Bose Road,
Chennai-600 001. .. Petitioner

Vs.

1.The Deputy Commissioner (CT)-I (FAC),
Large Tax Unit, No.34, "Dugar Towers",
Marshall Road, Egmore,
Chennai-600 008.

2.The State of Tamil Nadu,
Rep. by its Secretary,
Commercial Taxes & Registration Department,
Fort St.George, Chennai-600 009. .. Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the first respondent in CST/10020/2015-16 dated 23.05.2017, quash the same insofar as it relates to the levy of tax on turnover supported by Form "H" declaration and further direct the first respondent on grant exemption on the penultimate sale of goods to the exporters supported by form "H" declarations as envisaged under Section 5(3) of the Central Sales Tax Act, 1956.

For Petitioner : Mr.V.Sundareswaran

For Respondents : Mr.S.Kanmani Annamalai
Additional Government Pleader

O R D E R

Heard the submissions of Mr.V.Sundareswaran, learned counsel appearing for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader appearing for the respondents. With the consent on either side, this Writ Petition is taken up for final disposal.

2. The petitioner is a registered dealer on the file of the first respondent under the provisions of the Tamilnadu Value Added Tax Act, 2006 and the Central Sales Tax Act, 1956. In this writ petition, the petitioner seeks for issuance of a Writ of Certiorarified Mandamus to quash the order passed by the first respondent dated 23.05.2017, which is an assessment order for the year 2015-16 under the Central Sales Tax Act, 1956. Challenge to the impugned order is only with regard to the exemption claim of sales against Form H. The petitioner claims exemption of Rs.17,81,73,134/-, the details were produced including Form H and Form I

for Rs.12,92,71,124/- and to that extent exemption was allowed. However, for the remaining amount, exemption was denied on the ground that the petitioner did not file sales invoices.

3. The learned counsel appearing for the petitioner would submit that the reason assigned in the impugned order is unsustainable since Form I filed by the petitioner contains all the details especially the fourth row contains all the details. The learned counsel appearing for the petitioner further submits that on 13.06.2017, a representation was made by enclosing copies of the sale bills raised on the exporters with a request to redo the assessment and however, no orders have been passed.

4. During the pendency of the writ petition, the petitioner has produced Form H for Rs.17,81,73,134/- and it has been received by the respondents on 06.07.2017 as could be seen from the endorsement in the petitioner's representation dated 06.07.2017. Thus, when the petitioner has produced necessary documents, it goes without saying that those documents have to be perused by the Assessing Officer and then the assessment may be completed.

5. The respondent has committed one more serious error in passing the impugned order i.e., while completing the assessment, the respondent has disallowed the exemption claim in Form H filed for Rs.12,92,71,124/- and the entire turnover of Rs.17,81,73,134/- is taxed at 14.5%. It is a grave error committed by the Assessing Officer, as the petitioner was entitled for exemption in respect of Form H already produced by them to the satisfaction of the Assessing Officer.

6. In view of the above reasons, this Writ Petition is partly allowed and the impugned order of the first respondent in CST/10020/2015-16 dated 23.05.2017 is set aside insofar as it relates to denial of claim for exemption against Form H and the matter is remanded to the first respondent for fresh consideration and the first respondent shall consider the Form H produced by the petitioner along with the representations dated 13.06.2017 and 06.07.2017. No costs. Consequently, connected miscellaneous petition is closed.

03.08.2017

Index : Yes / No

Internet : Yes / No
jvm

To

1.The Deputy Commissioner (CT)-I (FAC),
Large Tax Unit, No.34, “Dugar Towers”,
Marshall Road, Egmore,
Chennai-600 008.

2.The Secretary to Government,
The State of Tamil Nadu,
Commercial Taxes & Registration Department,
Fort St.George, Chennai-600 009.

T.S.SIVAGNANAM.J,

jvm

W.P. No.15779 of 2017

03.08.2017