IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.10.2017

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.33650 of 2007 & M.P.Nos.1 & 2 of 2007

M/s.Pioneer Die Castings, rep. by its
Managing Partner, R.Dhamodaran,
No.128, P.N.Palayam Road,
Ganapathy, Coimbatore. ... Petitioner

Vs.

1.The Special Committee (CT),
Ezhilagam, Chepauk, Chennai.

2.The Commercial Tax Officer,
Avarampalayam Circle,
Coimbatore. ... Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus, to call for the records on the file of the first respondent in his proceedings in SCP. No./12/07 (CCT/M3/42674/05) dated 31.08.2007 quash the same and further direct the first respondent to consider and pass orders denovo fresh on the basis of the petition under Section 16-D of TNGST Act filed by the petitioner.

For Petitioner : Mrs.R.Hemalatha

For Respondents : Mrs.Narmadha Sampath,
Special Government Pleader

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O R D E R

Heard Mrs.R.Hemalatha, learned counsel appearing for the petitioner and Mrs.Narmadha Sampath, learned Special Government Pleader appearing for the respondent.

2.The petitioner in this writ petition has challenged the order of the Special Committee dated 31.08.2007, passed under Section 16-D of the Tamil Nadu General Sales Tax Act, 1959 (in short “TNGST Act”). By the impugned order, an application filed by the petitioner before the Special Committee dated NIL, received by the Special Committee on 20.07.2005, questioning the order of assessment dated 10.12.2004, for the assessment year 2002-03 has been rejected. The rejection of the petitioner's application is not on merits, but primarily due to the conduct of the petitioner before the assessing officer in not responding to the several notices issued by the assessing officer. What is interesting to note is that the issue, which arises for consideration in the assessment year 2002-03, was identical in respect of the earlier assessment years as well viz., 1999-2000, 2000-01. In respect of those assessment years as against the order passed by the assessing officer, the petitioner filed application before the Special Committee, under Section 16-D of the TNGST Act. Those applications were considered on merits and the Special Committee found that the assessments are required to be re-done. Consequently, a direction to the said effect was passed by the Special Committee dated 22.06.2005. Thus, the case stood remanded to the assessing officer for the assessment years 1999-2000 and 2000-01. On remand, the assessments have been completed accepting the books of accounts of the petitioner as correct and proper and orders have been passed on 05.04.2007. Soon after the committee ruled in favour of the petitioner for the earlier assessment years 1999-2000 and 2000-02, the petitioner filed an application before the Special Committee on 22.06.2005, in respect of the assessment year 2002-03. This application has been rejected by the impugned order dated 31.08.2007.

3.In my considered view, the Special Committee could have considered that pursuant to the earlier orders passed by the committee on 22.06.2005, the assessments have been completed after accepting the books of accounts produced by the petitioner. Therefore, in the fitness of things, the Special Committee could have remanded the matter in respect of the assessment year 2002-03, also to the assessing officer. This is more so, when the nature of transaction is identical as in the earlier assessment years.

4.Thus, for the above reasons, this Court is inclined to remand the matter for fresh consideration before the assessing officer. Accordingly, this writ petition is allowed and the impugned order dated 31.08.2007, passed by the first respondent/Special Committee is set aside. Consequently, the assessment order dated 10.12.2004, for the assessment year 2002-03 is set aside and the matter is remanded to the respondent for de nova consideration, who shall consider the petitioner's transaction as has been done for the assessment years 1999-2000, 2000-2001, and proceed to complete the assessment in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.

sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

abr

To

1.The Special Committee (CT),
Ezhilagam, Chepauk, Chennai.

2.The Commercial Tax Officer,
Avarampalayam Circle,
Coimbatore.

+ 1 cc to MR.R.HEMALATHA, Advocate sr.no.74916

+ 1 cc to Special Government Pleader [Taxes] sr.75015

 W.P.No.33650 of 2007

RR 17/11/2017