IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.08.2017

CORAM:

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.12145 of 2006

1. TVL. Dyna Technologies (P) Limited,
Rep. by its Director Mr.R.J. Mehta,
246, Nehru Nagar O.M. Road,
Kotivakkam,
Chennai - 96. ..Petitioner

Vs.

The Deputy Commercial Tax Officer,
Thiruvanmiyur Assessment Circle,
Besant Nagar, Chennai - 90. ..Respondent

Prayer: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari calling for the records on the files of the respondent in TNGST 0921126 / 2004-2005 dated 31.03.2006 and quash the same.

For Petitioner : Mr.R.Senniappan

For Respondent : Mr.K.Venkatesh,
Government Advocate.

O R D E R

Heard Mr.R.Senniappan, learned counsel for the petitioner and Mr.K.Venkatesh, learned Government Advocate appearing for the respondent.

2. The petitioner is aggrieved by an order of assessment dated 31.03.2006, in so far as it introduced a new reason pertaining to the Bulldowser, which was owned by the petitioner and used for performing Government contract.

3. I have perused the notice dated 17.01.2006 and there are seven heads under which the petitioner assessment was sought to be revised. Heads Nos.6 & 7 to relate to labour and repairing

charges. The petitioner while submitting their objections dated 27.02.2006, has produced the certificate and purchase bills. This was accepted by the respondent while completing assessment, stating that the certificate was issued by the Neyveli Lignite Corporation and AG returns are sufficient proof for sufferance of taxes for second sales and they are verified and allowed.

4. However, a new issue has been pointed out stating that they have not produced any records to show that the purchase of Bulldowser has suffered tax and whether there is any maintenance contract etc. Such proposal was not mentioned in the show cause notice. Therefore the assessment order to the said extent alone required to be set aside. The writ petition is partly allowed and the tax levied with regard to the Bulldowser pertaining to sufferance of purchase tax and annual maintenance contract is set aside and the matter is remanded to the respondent for fresh consideration by issuance of notice clearly informing as to under what head the petitioner is to be reassessed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

sli

To

The Deputy Commercial Tax Officer,
Thiruvanmiyur Assessment Circle,
Besant Nagar, Chennai - 90.

+1cc to Mr.R.Senniappan, Advocate, S.R.No.58401

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GJ(CO)
GN(08/09/2017)