IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.02.2017

CORAM:

THE HONOURABLE MR. JUSTICE RAJIV SHAKDHER

W.P.No.42456 of 2016
and W.M.P.No.36346 of 2016

M/s.Jampex Trading Private Limited,
rep by its Director Mr.Manish Jain,
New No.329, Old No.160, Linghi Chetty Street,
Chennai - 600 001. ... Petitioner

Vs.

1.The Assistant Commissioner (CT),
Vallalar Nagar Assessment Circle,
No.116, Angappan Naicken Street,
Chennai - 600 001.

2.The Assistant Commissioner (CT),
Esplanade Assessment Circle,
Chennai - 600 001. ... Respondents

Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of certiorari to call for the records of the 1st respondent in CST: 82515/2014-15 dated 01.09.2016 and the consequential recovery proceedings of the 2nd respondent in TIN No.33270100241 dated 25.10.2016 quash the same as contrary to the provisions of TNVAT Act, 2006.

For Petitioner : Mr.V.Sundareswaran

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

O R D E R

1.This Writ Petition is directed against the assessment order dated 01.09.2016, and the notice of demand, dated 25.10.2016.

1.1.Notice in this petition was issued on 02.12.2016. To date, no counter affidavit has been filed.

1.2.Pertinently, on 02.12.2016, this Court had granted interim stay in the matter.

2.Learned counsel for the petitioner says that insofar as the impugned assessment order is concerned, the petitioner's

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only grievance is with regard to the liability imposed on account of reversal of Input Tax Credit.

3.To be noted, the liability imposed on account of ITC reversal is a cumulative sum of Rs.2,36,559/- [Rs.2,17,961/- minus Rs.18,598/-]. The respondents, after making adjustments, have via the impugned assessment order, raised a demand on the petitioner amounting to Rs.2,83,844/-.

4.It is the petitioner's case that no tax liability on account of ITC reversal could have been imposed since the pre assessment notice dated 23.12.2015, did not allude to this aspect of the matter.

4.1.Learned counsel for the petitioner says that in the absence of proposal to that effect, there was no opportunity available to the petitioner to file objections on that behalf.

5.Mr.S.Kanmani Annamalai, who appears for the respondents submits that he cannot argue to the contrary.

6.Accordingly, the impugned assessment order dated 01.09.2016, is set aside. The respondents will have liberty to issue a fresh notice to the petitioner, if they so desire, with respect to the aspect pertaining to ITC.

7.Notice, if any, issued in that behalf, will not only give an opportunity to file objections, but also, shall afford an opportunity to the petitioner to represent its case via an authorized representative.

7.1. Needless to say that, if any de nova exercise is carried out, a fresh speaking order will be passed; a copy of which will be supplied to the petitioner.

8.At this stage, Mr.V.Sundareswaran, says that, since, the petitioner is aggrieved only qua tax liability imposed on account of ITC reversal, the petitioner shall liquidate the balance demand, which is a sum equivalent to Rs.47,285/- [Rs.2,83,844/- minus Rs.2,36,559/-].

8.1. As agreed, let the needful be done within two weeks from the date of receipt of a copy of the order.

9.The Writ Petition is disposed of in terms of the aforementioned direction. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

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To:

1.The Assistant Commissioner (CT),
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No.116, Angappan Naicken Street,
Chennai - 600 001.

2.The Assistant Commissioner (CT),
Esplanade Assessment Circle,
Chennai - 600 001.

+1cc to The Special Government Pleader(Taxes),sr.10321

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