ujIN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 12.04.2018

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.6549 of 2018
&
W.M.P.Nos.8141 and 8142 of 2018

M/s.Exide Industries Limited
Represented by its Authorised Signatory
"Navin's Presidium", No.103-A
Nelson Manickam Road, Chennai - 600 029. .. Petitioner

Versus

The Deputy Commissioner (ST)-I
Large Taxpayers Unit
Chennai - 600 008. .. Respondent

Petition filed under Article 226 of the Constitution of India, seeking for Writ of Certiorarified Mandamus, to call for the records on the file of the respondent in TIN 33220640025/2014-15 dated 19.02.2018 and quash the same as illegal, arbitrary and in violation of principles of natural justice and further direct the respondent to pass orders in accordance with the directions issued by this Court in W.P.Nos.42486 to 42488 of 2016 in the case of Tvl.Sonal Fashion Jewelery Vs. The Assistant Commissioner (CT), T.Nagar, Assessment Circle, Chennai.

For Petitioner : Mr.R.Ganesh Kanna
For Respondent : Ms.G.Dhana Madhri
Government Advocate

ORDER

Heard Mr.R.Ganesh Kanna, learned counsel for the petitioner and Ms.G.Dhana Madhri, learned Government Advocate for the respondent.

2. The petitioner, who is a registered dealer on the file of the respondent under the Tamil Nadu Value Added Tax Act, 2006 and the Central Sales Tax Act, 1956, has filed this writ petition challenging the order of assessment dated 19.02.2018 for the assessment year 2014-2015 under the provisions of the Tamil Nadu Value Added Tax Act, 2006.

3. The grievance of the petitioner is that if the Assessing Authority directs the petitioner to produce certain documents, they would have definitely produce all the documents and the assessment has been completed in a fair manner. However, the respondent passed the impugned assessment order alleging that the petitioner has not produced any documents, when the petitioner was not called upon to produce such documents.

4. The learned Government Advocate appearing for the respondent would submit that it is the duty of the assessee to produce the documents. Therefore, if the petitioner is aggrieved, he will file an appeal against the impugned order.

5. In my considered view, if one opportunity is granted to the petitioner to produce the documents, it will definitely result in a proper assessment order. Therefore, such course should be adopted rather than to non sue the assessee on technical grounds. This is more so, because the authority can collect only the correct amount of tax and anything over and above the permissible limit will be a illegal collection.

6. Hence, for the above reasons, this writ petition is disposed of by directing the petitioner to treat the impugned proceeding as a show cause notice and submit their objections within fifteen days from the date of receipt of a copy of this order. On receipt of the objections, the respondent shall fix a date for personal hearing, on which date, the petitioner should also produce all the documents in support of their contentions and after verifying the same, the respondent shall re-do the assessment by passing a speaking order. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

vsm
To
The Deputy Commissioner (ST)-I
Large Taxpayers Unit
Chennai - 600 008.

+1 CC to Mr.A. Ravichandran, Advocate sr 27438.

W.P.No.6549 of 2018

SP(03/05/2018)