

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.04.2018

Coram

The Hon'ble Mr.Justice T.S.Sivagnanam

Writ Petition No.9892 of 2018

Daon Auto Parts (India) Pvt. Ltd.,
(formerly Known as Hwaseung
Autorparts (India) Pvt. Ltd.,)
New No.54, Old No.100
Mevalurkuppam Village,
Thandalam Post,
Sriperumbudur Taluk - 602 105.

...Petitioner

Vs.

Assistant Commissioner (CT)
Sriperumbudur Assessment Circle,
Varadarajapuram - 602 103.

...Respondent

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus, directing the respondent to finalize the re-assessment proceeding at the earliest and further, to direct the respondent to finalize the re-assessment proceeding resorting to his judicial powers and not by referring the case to the Enforcement Wing.

For Petitioner : Mr.K.Senguttuvan

For Respondent : Mr.M.Hariharan
Additional Government Pleader

O R D E R

Heard Mr.K.Senguttuvan, the learned counsel appearing for the petitioner and Mr.M.Hariharan, the learned Additional Government Pleader, appearing on behalf of the respondent.

2. The petitioner has filed this Writ Petition to direct the respondent to finalize the re-assessment proceedings at the earliest by not referring to the report of the Enforcement Wing.

3. The petitioner has approached this Court, by way of this Writ Petition by complying with the condition imposed by this Court in the earlier Writ Petitions in Nos.34470 to 34477 of 2016, dated 29.09.2016. The petitioner has also paid a sum of Rs.88,29,581/-, by a cheque, dated 14.12.2016, along with requisite Industrial Input Certificate, which has been acknowledged by the respondent on 14.12.2016. Since the re-assessment proceedings were not finalized, the petitioner, apprehending that the respondent will be sole guided by the report of the Enforcement Wing, has approached this Court, by way of this Writ Petition.

4. This Court, by order, dated 20.04.2018, directed the learned Additional Government Pleader for the respondent to get instructions, and accordingly, the respondent has given written instructions to the learned Government Pleader, wherein, it is admitted that the sum of Rs.88,29,581/- has been paid by the petitioner and the petitioner has also filed objections with documentary evidence and Industrial Input Certificate. However, the respondent would state that, he has sent a Deviation Report to the Deputy Commissioner (CT) Zone-XII, who in turn, has remanded back the deviation proposal and instructed to give effect to the order passed this Court, and if the deviation is fit, send the proposal to the Joint Commissioner (ST) Chennai, (South) Division. Further, the respondent would state that, Industrial Input Certificate received from the dealers have been since traced out from the records, and he undertakes to pass orders within two weeks.

5. In the light of the aforesaid stand taken by the respondent, this Court can dispose of the Writ Petition, by directing the respondent to complete the assessment, as agreed by him, in the written instructions given to the learned Additional Government Pleader, but, however in the said instructions, I find that the respondent has been directed by the Deputy Commissioner (CT) Zone-XII, to consider as to whether the deviation is fit, and send a proposal to the Joint Commissioner (ST) Chennai (South) Division. In my considered view, such a course is unnecessary, and should not be adopted by the Assessing Officer. The settled legal position is that, the Assessing Officer is an independent Statutory Authority and has to exercise his power and complete the assessment based on a documentary evidence placed by the assessee before him pursuant to the revision notice. The respondent, having accepted that the Industrial Input Certificate and other documentary evidence are available, should complete re-assessment proceeding without, in any manner, being influenced by the opinion of the Enforcement Wing.

6. In the light of the above, the Writ Petition is disposed of, by directing the respondent to complete the re-assessment proceeding after affording an opportunity of personal hearing to the Authorized Representative of the petitioner and take an independent decision without, in any manner, being influenced by the report of the Enforcement Wing. The respondent shall adhere to the time agreed by him in the written instructions given to the learned Additional Government Pleader. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

sd

To

Assistant Commissioner (CT)
Sriperumbudur Assessment Circle,
Varadarajapuram - 602 103.

+1cc to Mr.K.Senguttuvan, Advocate, S.R.No.30598

+1cc to the Special Government Pleader(T), S.R.No.31448

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KAN(CO)
CS/07/06/18

सत्यमेव जयते

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