IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2018

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition No.5868 of 2012
and
M.P.No.1 of 2012

Exelan Net Working Technologies Pvt. Ltd
Rep. by its Managing Director,
21/22, Taylors Road,
Kilpauk, Chennai - 10 ...Petitioner

Vs.

Commercial Tax Officer,
Kilpauk Assessment Circle,
No.35, Hails Road,
Kilpauk, Chennai - 10. ... Respondent

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records on files of the respondent in his proceedings in TIN/3312 1122770/2010-11 dated 18.01.2012 and quash the same as arbitrary, invalid and illegal and in total disregard of the provisions of Tamil Nadu Value Added Tax Act and its rules.

For Petitioner :M/s.T.V.Lakshmanan
For Respondent :Mr.M.Hariharan
Additional Government Pleader

O R D E R

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

2.The petitioner is aggrieved by an order of assessment under the provisions of the Tamil Nadu Value Added Tax Act 2006 [hereinafter referred to as "the TNVAT Act"] for the assessment year 2010-11.

3.I find that the assessment has been completed exparte as the petitioner did not file their objections. The petitioner's case is that soon after they came to know the impugned assessment order, they approached the respondent and submitted a representation on 21.02.2012, clearly explaining as to how the error has occurred and there can be no discrepancies between the Annexure - I and Annexure – II of the seller. On this ground the writ petition has been entertained from the year 2012. The matter is pending before this Court and an interim order of recovery has been granted on 19.03.2012.

4.Considering the factual issue involved in this case and the bunch of documents produced by the petitioner, to establish that one of the dealers namely, Ingram Micro India Limited, is an existing dealer and on account of wrong TIN number has been mentioned, an error has occurred. This is a fit case, where the assessment could be redone after considering all the materials available with the petitioner.

5.For the above reasons, the writ petition is allowed and the assessment order is quashed and the matter is remanded back for fresh consideration to the respondent and he petitioner is directed to submit their objections to the reassessment notice dated 07.10.2011, within a period of fifteen days from the date of receipt of a copy of this order and enclose all the relevant documents to prove their stand and on receipt of the objections along with the documents, the respondent shall afford an opportunity of personal hearing to the petitioner and re-do the assessment in accordance with law.

6.In respect of the allegations against the other two dealers namely, Compuage infocom Limited and Redington India Limited, it is open to the petitioner to justify the nature of transaction. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS II)

//True copy//

Sub Assistant Registrar

kak/maya

To

The Commercial Tax Officer,
Kilpauk Assessment Circle,
No.35, Hails Road,
Kilpauk, Chennai - 10.

+1cc to Mr.Lakshmanan, Advocate SR.No.7197
+1cc to Special Government Pleader SR.No.7162

W.P.No.5868 of 2012

MG(CO)
GN(27/02/2018)