IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2018

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition No.14472 of 2018
and W.M.P.No.17084 of 2018

Tvl.Arteco Coolants India Private Limited,
Rep. by its Authorized Signatory/Director,
No.14, Thiruneermalai Road, Nagalkeni,
Chromepet, Chennai-600 044. .. Petitioner

Vs.

The State Tax Officer,
Pammal Assessment Circle,
Plot No.32 & 33, Sripuram, 2nd Street,
Thiruneermalai Road,
Chromepet, Chennai-600 044. .. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records in assessment order passed by the respondent in TIN 33020888940/2015-16 dated 15.05.2018 and to quash the same as illegal, arbitrary and against the statutory provision of the TNVAT Act and to direct the respondent to pass orders as per law.

For Petitioner : Mr.A.Thiyagarajan,
Senior Counsel
for Mr.M.Nallathambi

For Respondents : Mrs.G.Dhanamadhri,
Government Advocate (Taxes)

O R D E R

Heard Mr.A.T.Thiyagarajan, learned Senior Counsel for Mr.M.Nallathambi, learned counsel for the petitioner and Mrs.G.Dhanamadhri, learned Government Advocate accepting notice on behalf of the respondent. With consent on either side, this writ petition is taken up for final disposal.

2. In the light of the fact that the assessment for the year 2015-16 under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (hereinafter referred to as "the TNVAT Act") has been revised without affording an opportunity of personal hearing to the petitioner, this Court is inclined to entertain the writ petition and dispose of the same at this stage.

3. The petitioner claims that they have sold industrial lubricants to the customers such as Caterpillar India Pvt. Ltd., and Ford India Pvt. Limited and those are taxable at the rate of 5%, in the light of the order passed by the Authority for clarification and Advance Ruling, dated 29.10.2014. The respondent has completed the assessment by referring to a Government Order dated 03.08.2007, which is much prior to the decision rendered by the Advance Ruling Authority.

4. The learned Government Advocate pointed out that the petitioner has not placed the Advance Ruling before the Assessing Officer while submitting the reply. Thus, if it is so, it is deemed that the respondent should be aware of the legal position and the decision taken by the Advance Ruling before the Assessing Officer while submitting the reply. Hence, for the above two reasons, viz., for not affording an opportunity of personal hearing and with a view to afford an opportunity to the petitioner to place the Advance Ruling before the respondent, this Court is inclined to remand the matter to the respondent for fresh consideration.

5. Accordingly, this writ petition stands disposed of by directing the petitioner to treat the impugned proceedings as a show cause notice and submit further objections and enclose a copy of the Advance Ruling within a period of fifteen days from the date of receipt of a copy of this order and on receipt of the same, the respondent shall afford an opportunity of personal hearing and redo the assessment in accordance with law. Till then, no coercive action shall be initiated against the petitioner. No costs. Consequently, connected miscellaneous petition is closed.

abr

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

The State Tax Officer,
Pammal Assessment Circle,
Plot No.32 & 33, Sripuram, 2nd Street,
Thiruneermalai Road,
Chromepet, Chennai-600 044.

+1cc to Mr.M.Nallathambi, Advocate Sr.No.37565
+1cc to Special Government Pleader SR.No.37996

KS(CO)
sm:27.6.2018

W.P.No.14472 of 2018