IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2018

CORAM:

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.31458 of 2018
and
WMP.No.36655 of 2018

Ravel Electronics Private Limited
Rep. by its Director K.Rajasekaran
No.13, Padmanaba Nagar
Adyar, Chennai-600 020. ..Petitioner

Vs

The Assistant Commissioner (CT)
Adyar Assessment Circle
No.46, Greenways Road,
Chennai-600 028. ..Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the entire records of the respondent in TIN:33080962627/2015-2016 dated 31.08.2018 and quash the order therein.

For Petitioner : Mr.A.P.Srinivas

For Respondent : Mr.M.Hariharan
Additional Government Pleader (T)

O R D E R

Mr.M.Hariharan, learned Additional Government Pleader takes notice for the respondent. By consent of the parties, the writ petition is taken up for final disposal at the admission stage itself.

2. The petitioner is aggrieved against the order of assessment dated 31.08.2018 passed under the Tamil Nadu Value Added Tax Act, 2006, in respect of the assessment year 2015-2016. Out of the three issues raised and considered by the assessing Officer in the impugned order of assessment, the present writ petition is filed by confining the relief only as against Issue No.2 viz., Reversal of ITC on purchase bills not accounted for in other end dealers Annexure-II (mis-match).

3. Mr.A.P.Srinivas, learned counsel for the petitioner submitted that insofar as Issue No.1 viz., Reversal of ITC availed on ineligible commodities is concerned, the petitioner has admitted the liability and paid the tax. Likewise, insofar as Issue No.3 is concerned, it is submitted by the learned counsel for the petitioner that the said issue pertains to Central Sales Tax Act, 1956, which has been wrongly included and considered in the present assessment proceedings under the TNVAT Act, 2006. He further contended that already a separate assessment order has been passed on 12.09.2018 under the CST Act, 1956, in respect of Issue No.3 viz., Interstate sales against C forms for which declarations are not filed-difference in tax along with other issues and therefore, the petitioner will work out their remedy against the said assessment order passed under the CST Act, 1956 separately.

4. The learned Additional Government Pleader conceded that issue No.2, which pertains to CST Act, has been wrongly included and considered in the TNVAT Act assessment proceedings.

5. Thus, the present dispute between the parties is with regard to Issue No.2 viz., Reversal of ITC on purchase bills not accounted for in other end dealers Annexure-II (mis-match). There is no dispute to the fact that the said mis-match issue was already considered by this Court in a reported decision in JKM Graphics Solutions Vs. CTO, ([2017] 1999 VST 343). As it is also seen that the present assessment order was passed on 31.08.2018, much later to the order passed in JKM Graphics Solutions case, the Assessing Officer ought to have followed the guidelines/directions issued by this Court in JKM Graphics Solutions case, before concluding the assessment insofar as mis-match issue is concerned. Therefore, this Court is inclined to set aside the impugned order insofar as Issue Nos.2 & 3 are concerned and remit the matter back to the Assessing Officer to reconsider the Issue No.2 alone, since Issue No.3 is admittedly raised and decided wrongly in the present assessment proceedings under the TNVAT Act and that separate order of assessment dated 12.09.2018 is passed under CST Act, in respect of that issue along with other issues. Thus, the assessment made insofar as Issue No.3 is concerned, the present assessment order is liable to be set aside. Insofar as Issue No.1 is concerned, this Court is not expressing any view, as the petitioner is not disputing their liability.

6. Accordingly, this writ petition is allowed in part and the impugned order is set aside insofar as Issue Nos.2 & 3 are

concerned. Consequently, the matter is remitted back to the Assessing Officer insofar as Issue No.2 is concerned viz.,Reversal of ITC on purchase bills not accounted for in other end dealers Annexure-II (mis-match), to redo the assessment by following the guidelines/directions issued by this Court in a reported decision in JKM Graphics Solutions Vs. CTO, ([2017] 1999 VST 343). Such exercise shall be done by the Assessing Officer within a period of six weeks from the date of receipt of a copy of this order. The petitioner shall co-operate with the Assessing Officer to complete the assessment within the time stipulated, by producing all other documents in respect of Issue No.2 is concerned. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

mk

To

The Assistant Commissioner (CT)
Adyar Assessment Circle
No.46, Greenways Road,
Chennai-600 028.

+1cc to Mr.A.P.Srinivas, Advocate SR.No.81974

+1cc to Special Government Pleader SR.No.82321

W.P.No.31458 of 2018

AP(CO)
GMY(20/12/2018)