IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 29.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.S. RAMESH

W.P.No.9931 of 2009
and M.P.No.1 of 2009

M/s.Midas Communication Technologies (P) Ltd.,
rep. by its Company Secretary
S.Krishnamurthy,
No.1, Kalyani Nagar, Chennai-41,
at Present No.3/440, ECR Road,
Neelankarai, Chennai-41. ...Petitioner

Vs.

1.The State of Tamil Nadu
rep. by the Secretary to Government,
Commercial Taxes and Religious Endowments Department,
Fort St. George,
Chennai-600 009.

2.The Special Commissioner & Commissioner of Commercial Taxes, Ezhilagam,
Chepauk,
Chennai-600 005.

3.The Commercial Tax Officer,
Thiruvanmiyur Assessment Circle,
Besant Nagar,
Chennai-600 090. ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records on the file of the third respondent in TNGST. 0923698 for the assessment year 2005-06 dated 12.03.2009 and to quash the same as being without jurisdiction and authority of law and as ultra vires Entry 54 of List II of the Seventh Schedule to and Article 14, 19(1)(g) and 245 of the Constitution of India.

For Petitioner : Mr.M.Vadivel
for Mr.B.Senniappan

For Respondents : Mrs.Dhanamadhri,
Government Advocate

O R D E R

The order under challenge in the present Writ Petition is for the Assessment Year 2005-06 dated 12.03.2009.

2. Heard Mr.M.Vadivel, learned counsel for the petitioner and Mrs.Dhanamadhri, learned Government Advocate appearing on behalf of the respondents.

3. On a perusal of the grounds raised in the present Writ Petition, the Writ Petition cannot be maintained in view of the alternate statutory remedy of filing an appeal being provided under the Tamil Nadu General Sales Tax Act, 1959 (hereinafter referred to as 'TNGST Act').

4. At this juncture, the learned counsel for the petitioner would submit that the petitioner was finally assessed for the year 2005-06 under the TNGST Act on 10 heads, out of which, they have certain objections on the head of 'Software Support and Development Services'. It is also seen that the proposed levy notices were also been issued to the assessee for the year 2003-04, for which, this Court in Writ Petitions in W.P.Nos.9930 & 9932 of 2009 had granted them liberty to file their objections. While that being so, it would be appropriate that a similar liberty be extended to the petitioner to give his objections, insofar as it relates to the proposal to assess the petitioner on the head of 'Software Support and Development Services'.

5. In the light of the above observations, the petitioner is granted liberty to file an appeal as against the Assessment Order for the year 2005-06 dated 12.03.2009 on the proposals, except Software Support and Development Services, within a period of 30 days from the date of receipt of a copy of this order.

6. Insofar as the Software Support and Development Services which is covered in the Assessment Order for the year 2005-06 dated 12.03.2009 is concerned, the petitioner is granted liberty to file his objections to the respondents herein, within a period of 15 days from the date of receipt of a copy of this order.

7. With the above observations and directions, the Writ Petition is disposed of. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Secretary to Government,
State of Tamil Nadu
Commercial Taxes and Religious Endowments Department,
Fort St. George,
Chennai-600 009.

2.The Special Commissioner & Commissioner of Commercial Taxes, Ezhilagam,
Chepauk,
Chennai-600 005.

3.The Commercial Tax Officer,
Thiruvanmiyur Assessment Circle,
Besant Nagar,
Chennai-600 090.

+1 cc to The Special Government Pleader, Sr.No.65011

AKM/27.09.19/3P-5C /

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