IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.10.2019

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.Nos.37057 of 2015
MP.No.1 of 2015

M/s.Teems India Towerlines Pvt. Ltd.
Rep by its Managing Director ...Petitioner

--Vs--

Assistant Commissioner (CT)
Sholinganallur Assessment Circle,
Plot No.141, 1st Main Road
Burma Colony, Perungudi,
Chennai-600096 ... Respondent

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Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ or order of direction or any other Writ in the nature Writ of Certiorari, calling for the records of the respondent in TIN/33690986396/2015-16 and quash order dated 16.10.2015.

For Petitioner : Mrs.Hema MuraliKrishnan

For Respondents : Mr.V.Haribabu
Additional Government Pleader

O R D E R

The petitioner challenges order of assessment dated 16.10.2015 passed for the month of August 2015, in terms of the provisions of the Tamil Nadu Value Added Tax Act, 2006 (in short ' Act').

2. Heard Mrs.Hema Muralikrishnan, learned counsel for petitioner and Mr.V.Haribabu, learned Additional Government Pleader for respondent.

3. The petitioner received notice dated 30.09.2015 from the respondent/assessing officer alleging excess claim of Input Tax Credit (ITC). According to the respondent, Annexure V to the monthly return reflected closing stock and ITC corresponding thereto at a figure of Rs.12,59,906/-, whereas, the entire amount of ITC carried forward was an amount of Rs.48,00,264/-. Accordingly, the petitioner was called upon to reverse the excess credit of Rs.35,40,358/-.

4. The petitioner responded on 12.10.2015, pointing out that the amount of Rs.48,00,264/- related to input of closing stock, of an amount of Rs.12,59,906/-, advance tax for obtaining form S of an amount of Rs.7,26,000/- and tax deducted at source of an amount of Rs.28,14,358/-. This would explain the entire ITC claimed.

5. Notwithstanding the reply filed, the impugned order of assessment has been passed confirming the pre-assessment proposal. There is no dispute with regard to the position that the petitioner has been following the identical modus operandi of claiming ITC over the months, both pre and post August 2015. Thus, the present impugned order is clearly an aberration and has not taken note of the prevailing factual position.

6. The impugned order of assessment dated 16.10.2015 is thus set aside and the writ petition allowed. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(Insp cell)

//True Copy//

Sub Assistant Registrar

ska

To

Assistant Commissioner (CT)
Sholinganallur Assessment Circle,
Plot No.141, 1st Main Road
Burma Colony, Perungudi,
Chennai-600096

+1cc to Mr.L.Murali Krishnan, Advocate SR.86210
+1cc to Spl Government Pleader (Taxes), SR.86609

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PVS(CO)
CB(22/11/2019)