IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.02.2020

Coram:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

Writ Petition No.16100 of 2017
and W.M.P.No.17386 of 2017

Pan Electronics (India) Ltd.,
Rep.by its Managing Director
Plot No.83, SIPCOT Industrial Complex,
Hosur. .. Petitioner

/versus/

1.The Joint Commissioner (CT)
Salem Division,
Salem.

2.The Assistant Commissioner (CT),
Hosur (North),
Hosur. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the 2nd respondent in Roc.1398/2018/A3 culminating in the order of the 1st respondent in Roc.6133/2016 A11 and quash the impugned order of the 2nd respondent dated 11.08.2015 culminating in the order of the 1st respondent dt 08.12.2016 and direct the respondents to refund the excess sum paid by the petitioner under the Tamil Nadu Sales Tax (Settlement of Arrears) Act, 2011.

For Petitioner : Mrs.Hema Muralikrishnan
For Respondents : Mr.ANR.Jayaprathap
Govt.Advocate (T)

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O R D E R

The petitioner had settled the dispute under the provisions of the Tamil Nadu Sales Tax (Settlement of Arrears) Act 2011, while making the application for settling the case under the aforesaid Act.

https://hcservices.ecourts.gov.in/hcservices/

2. It is the case of the petitioner that a sum of 1,53,74,828/- was paid by the petitioner under the Tamil Nadu Sales Tax (Settlement of Arrears) Act 2011 though the petitioner was refunded to pay a sum of Rs.1,08,63,652/- . The petitioner therefore sent a letter dated 26.11.2016 to the first respondent and has restricted a refund claim for an amount of Rs.24,26,275/-.

3. By the impugned order, the aforesaid refund claim has been rejected by the Joint Commissioner, Commercial Tax, Salem. It has been stated that the settlement order has attained finality and therefore, the refund claim by the petitioner cannot be allowed.

4. I have considered the arguments of the leaned counsel for the petitioner and the respondents and also perused the impugned order passed by the 1st respondent.

5. The petitioner had filed an application under the Tamil Nadu Sales Tax (Settlement of Arrears) Act, 2011 to settle the case. While filing the application, the petitioner paid an amount of Rs.1,53,74,828/-. It is further submitted by the petitioner that another sum of Rs.1,07,10,101/- on 05.05.2012 towards interest for the Assessment Years1996-97 to 2009-10.

6. It is further submitted that the arrears of tax under the IFST deferral and non-defferal was Rs.1,53,74,828/- and the interest thereon was only Rs.61,70,667/-. Under these circumstances, it is submitted that the excess amount of Rs.24,26,275/- was paid by the petitioner. There is some confusion in the calculation as the petitioner had originally filed a Writ Petition in W.P.No.12480 of 2015 and had claimed the refund of Rs.45,11,176/-. However, in their representation dated 26.11.2016, they have restricted the refund claim of Rs.24,26,275/-. It is not clear on what basis the petitioner had restricted the refund claim to the aforesaid amount though the petitioner had earlier claimed an amount of Rs.45,11,176/-.

7. I however do not find any merits in the impugned order insofar as it seek to deny the refund of the amount paid in excess. At the same time, since there is some doubt as to the actual amount claimed as refund, I am of the view that the impugned order can be set aside and the case be remitted back to the 1st respondent to refund the actual amount paid in excess by the petitioner after verifying the records.

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8. Therefore, the petitioner may file its representations before the 1st respondent, within a period of thirty days from the date of receipt of a copy of this order and give the particulars of the calculations to justify the refund claims. The 1st respondent is directed to pass fresh order, after hearing the petitioner, within a period of three months from the date of receipt of a copy of this order.

9. The writ petition stands allowed by way of remand. No cost. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

kkd / jen

To

1.The Joint Commissioner (CT)
Salem Division,
Salem.

2.The Assistant Commissioner (CT),
Hosur (North),
Hosur.

+2 CC to Spl. Govt. Pleader 17385 & 18554
+1 CC to M/s. Murali Krishnan 18203

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MRP 29/05/2020

सत्यमेव जयते

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