BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.11.2021

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P(MD)No.21103 of 2014
and
M.P.(MD).No.1 of 2014

M/s.The Ramco Cements Limited,
(Formerly Madras Cements Limited),
represented by its (Legal) Deputy General Manager,
R.R.Nagar,
Virudhunagar. ... Petitioner

Vs.

The Assistant Commissioner (CT)-III (FAC),
Virudhunagar. ... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records of the respondent in his proceedings in TIN.No.33945760453/2014-15, quash the Pre-Provisional Assessment Notice dated 24.11.2014 issued therein.

For Petitioner	:	Mr.R.L.Ramani Senior Counsel for Mr.S.Raja Jeya Chandra Paul
For Respondent	:	Mr.M.Lingadurai Government Advocate

ORDER

Captioned main writ petition has been filed assailing a notice captioned 'Pre-Provisional Assessment Notice' (hereinafter 'impugned notice' for the sake of convenience and clarity).

2. Mr.R.L.Ramani, learned Senior Counsel appearing on behalf of learned counsel on record for writ petitioner is before this Court.

3. A perusal of the impugned notice brings to light that it is a pre-provisional assessment notice qua Section 25 of 'the Tamil Nadu Value Added Tax Act, 2006' (hereinafter 'TN VAT Act' for the sake of convenience and clarity).

4. The impugned notice pertains to 'Assessment Year 2014-15' (hereinafter 'said AY' for the sake of convenience and clarity).

5. Mr.M.Lingadurai, learned Government Advocate (Civil side) is before this Court on behalf of the lone respondent.

6. Learned Senior Counsel for writ petitioner assails the impugned order by saying that each month is a unit but the impugned notice clubs together more than six months in this case and therefore, it is liable to be interfered with/set aside. Another point brought to the notice of this Court is for said AY, in the light of Sub Section (2) of Section 22 of TNVAT Act deemed assessment under Section 22 (2) has statutorily happened on 31.10.2015 and therefore, if at all and if that be so the respondent can only resort to Section 27 and Section 25 is not available to the respondent post 31.10.2015.

7. Learned Standing Counsel submits that the impugned notice cannot be found fault with as it has been issued in the course of assessment and the details sought for i.e., objections sought for were necessary to conclude proceedings under Section 25 of TNVAT Act.

8. This Court refrains itself from expressing any opinion on merits qua challenge to impugned notice owing to the order that is proposed to be made. There is no disputation that deemed assessment happened on 31.10.2015 qua said AY as per Sub Section (2) of Section 22 of TNVAT Act. Once there is an assessment, if there is any issue regarding reversal of Input Tax Credit(ITC) Revenue has to resort to Section 27 of TNVAT Act.

9. In other words, Section 25 legal drill pales into insignificance on deemed assessment kicking in statutorily vide Section 22(2) of TNVAT Act appears to be insignificant and the legal drill if at all and if that be so can only be under Section 27 of TNVAT Act .

10. On the aforementioned short point, the impugned notice is set aside without expressing any opinion on merits of the matter and leaving it open to the respondent to commence the legal drill under Section 27 of TNVAT Act if so advised.

11. Captioned Writ Petition is disposed of in the aforesaid manner. Consequently, connected M.P.(MD).No.1 of 2014 stands closed. There shall be no order as to costs.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

tsg

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Assistant Commissioner (CT)-III (FAC),
Virudhunagar.

+1 CC to M/s.S.RAJA JEYA CHANDRA PAUL, Advocate
(SR-33713[F] dated 08/11/2021)

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TSK(CO)
RS/SKN (23.11.2021) 3P 3C