(2015) 10 MAD CK 0089

In the Madras High Court

Case No : W.P. Nos. 33552 to 33555 of 2015 and M.P. Nos. 1 and 2 of 2015

Philips India Ltd. APPELLANT

Vs

The Deputy Commissioner (CT)-II and Others RESPONDENT

Date of Decision : 16-10-2015

Acts Referred:

Citation : (2015) 10 MAD CK 0089

Hon'ble Judges : R. Mahadevan, J.

Bench : Single Bench

Advocate : N. Inbarajan, for the Appellant; S. Kanmani Annamalai, AGP(T), for the Respondent

Judgement

R. Mahadevan, J.—Heard the learned counsel for the petitioner and the learned Additional Government Pleader, who took notice for the respondents and with their consent, the main writ petitions are taken up for disposal.

2. These writ petitions are filed for the issuance of a Writ of Certiorarified Mandamus to call for the records from the files of the 1st respondent herein in TIN/CST.33091581918/31902, dated 08.10.2015, and to quash the same and consequently, to forbear the first respondent from proceeding with any recovery, pending disposal of the appeals filed by the petitioner in A.P. Nos. 21, 170, 08 & 174/2014, arising out of assessment year CST. 2007-08, CST. 2010-11, CST. 2011-12 & CST. 2012-13 respectively, on the file of the 2nd respondent.

3. According to the learned counsel for the petitioner, originally, challenging the assessment orders of the 1st respondent for the years CST. 2007-08 & CST. 2010-12 to 2012-13, appeals were filed along with stay applications by the petitioner by remitting mandatory deposit of 25% of the tax demanded for all the assessment years before the 2nd respondent. The appeals were taken on file along with stay petitions filed by the petitioner. The appellate authority was pleased to grant an order of stay in all the petitions, directing the petitioner to pay another 25% of the disputed amount of tax before the Assessing Authority.

The appellate authority has also imposed a further condition directing the petitioner to furnish bank guarantees in respect of balance amount of tax and penalty in all the stay petitions. Accordingly, both the conditions imposed by the appellate authority had been complied with by the petitioner and the bank guarantees have also been furnished by the petitioner.

4. Thereafter, pending the appeals, since the stay orders granted were in operation only for a period of six months, the petitioner filed stay extension applications, on which the 2nd respondent had extended the stay orders. Since the said period was to expire, the petitioner has filed again stay extension applications in all the aforesaid appeals. It is further submission of the learned counsel for the petitioner that before the appellate authority, the arguments of the petitioner were completed on 28.09.2015 itself and the orders have been reserved by the appellate authority.

5. When that being the position, according to the learned counsel for the petitioner, by the impugned notice, the 1st respondent has intimated the petitioner that if stay extension orders are not obtained before 19.10.2015, recovery proceedings would be initiated. Apprehending recovery action would be initiated, the petitioner is before this Court.

6. The petitioner has paid 25% of the disputed tax for the respective assessment years at the time of filing the appeals. Further, as directed by the Appellate authority, the petitioner also made payment of another 25% of the disputed amount. The petitioner has also furnished bank guarantees for the balance tax amount and penalty wherever applicable for all the assessment years. However, according to the learned counsel for the petitioner, the extension of stay petitions filed by the petitioner were not heard. In the meantime, on 08.10.2015, the 1st respondent herein issued a notice directing the petitioner to produce stay orders, in the absence of which, recovery action will be initiated. Since the revenue of the department is very much safeguarded by remitting 50% of the disputed tax for all the assessment years as well as furnishing bank guarantee for the remaining 50% of the disputed tax and penalty wherever applicable, which are still in force, this Court is of the view that the appeals are to be disposed of within a stipulated time and the recovery proceedings shall be kept in abeyance till the disposal of the appeals.

7. In view of the above, the 2nd respondent/appellate authority is directed to take up the appeals in A.P. No. Nos. 21, 170, 08 & 174/2014 respectively and dispose of the same on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order and till such time no recovery proceedings need be initiated as against the petitioner. It is made clear that the stay of original assessment orders shall be in force till the disposal of the appeals.

8. With the above terms, the writ petitions are disposed of. No costs. Connected miscellaneous petitions are closed.

