IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29-07-2015

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE MR. JUSTICE M.VENUGOPAL

W.A. Nos. 1024 to 1026 of 2015
and
M.P. Nos.1, 1 & 1 of 2015

J.K.S. Construction Pvt. Ltd.,
12 Sammandham Street,
Bharathipuram, Chrompet,
Chennai 600 044
rep. By its Executive Director,
J. Saravanan. ... Appellant in all the writ appeals

Vs

The Assistant Commisisoner (CT),
Chrompet Assessment Circle,
117 Station Road, Radha Nagar,
Chennai-600 044. ... Respondent in all writ appeals

Writ Appeals filed under Clause 15 of the Letters Patent as against the common order dated 31.03.2015 passed in W.P. Nos. 9199 to 9201 of 2015.

Writ of Certiorari calling for the proceedings of the respondent contained in TIN : 33890944188/2011-12, 2012-13 and 2013-14 respectively dated 12.01.2015 and the Consequential proceedings respectively impugned in W.P.9199 of 2015 in TIN : 33890944188/14-15/2015/A3 dated 20.02.2015 and quash the same and pass orders directing the respondent to provide an opportunity to present its objections.

For appellant in all the WAs : Mr. K. Ramasamy

For respondent in all the WAs : Mr. Kanmani Annamalai Government Advocate - Taxes

COMMON JUDGMENT

(Judgment of the Court was delivered by SATISH K. AGNIHOTRI, J.)

Heard Mr. K. Ramasamy, learned counsel appearing for the appellant and Mr. Kanmani Annamalai, learned Government Advocate (Taxes) appearing for the respondents.

2. The appellant had filed writ petitions being W.P. Nos. 9199 to 9201 of 2015 for quashing the assessment order dated 12.01.2015 passed by the respondent. The Writ Court, while setting aside the impugned order on 12.01.2015, had directed the appellant to deposit 10% of the tax amount excluding penalty in each case, as volunteered by them, on or before 01.06.2015 and directed the respondent to de freeze the Bank account of the petitioner and decide the matter afresh on merits and in accordance with law, after affording an opportunity of personal hearing to the representative of the petitioner as provided under Section 22 (4) of the Act. It is further observed that the representative of the petitioner would appear before the respondent on 02.06.2015 as agreed, failing which, the respondent is empowered to pass orders, on merits, based on the available records.

3. The only contention raised by the learned counsel for the appellant before us is that once the writ petitions have been allowed and the appellant is permitted to avail the opportunity of personal hearing before the authority concerned and also, the respondent was directed to pass orders, there is no justification on the part of the Writ Court in giving a direction for making a deposit of 10% of the tax amount, inasmuch as the question of making any deposit or payment would arise only after fresh assessment is made.

4. In our considered view, the aforesaid submission of the learned counsel for the appellant is justified. Accordingly, the direction issued by the Writ Court regarding deposit of 10% of the tax amount alone is set aside. However, as per the order of the Writ Court, the appellant shall appear before the respondents along with

relevant records, within a period of two weeks, if not already filed and on receipt of the same, the respondent is directed to consider the same independently and after giving opportunity of hearing, shall pass orders afresh, on merits and in accordance with law, as expeditiously as possible and not later than four weeks from the date of receipt of the objections.

5. These writ appeals are allowed to the extent indicated above. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

ra

To

The Assistant Commisisoner (CT),
Chrompet Assessment Circle,
117 Station Road, Radha Nagar,
Chennai-600 044.

+3cc's to Mr.K.Ramasamy, Advocate, S.R.No.38780 to 38782
+1cc to the Special Government Pleader(T), S.R.No.38943

W.A.Nos. 1024 to 1026 of 2015

RV(CO)
CA(11/08/2015)