IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15-06-2015

CORAM:

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

W.A. Nos.794 to 797 of 2015 and M.P. Nos.1 & 1 of 2015 (4 Nos.)

M/s.Shinago International
(India) Pvt. Ltd
Raheja Tower Unit-407
4th Floor, 177,Anna Salai,Chennai-2
Rep. by its Director Shivgan K.Patel
Appellant in all the
writ appeals

Vs

1 The Commercial Tax Officer
Anna Salai Assessment Circle
PAPJM Building -Annexe
Greams Road, Chennai-6

2 The Assistant Commisisoner-
Commercial Taxes, Central Enforcement Wing I
(Inspection Officer) Anna Salai,
Assessment Circle, PAPJM Building - Annexe
Greams Road
Chennai-6 Respondents in all
writ appeals

Writ Appeals filed under Clause 15 of the Letters Patent as against the common order dated 29-01-2015 passed in W.P. Nos.1966 to 1969 of 2015.

Writ petitions filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified mandamus, to call for the records of the 1st respondent herein under Ref.No.TIN 33840600884/ 2011-2012 dated 29.12.2014 and quash the same and direct the respondents to afford a reasonable opportunity of hearing to the petitioner for production of documents.

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| For appellant in all the WAs | Mr. AR.L. Sundaresan, Sr. Counsel for M/s. AL. Ganthimathi |
| For respondent in all the WAs | Mr. Kanmani Annamalai Government Advocate - Taxes |

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COMMON JUDGMENT

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

Heard Mr. AR.L. Sundaresan, learned senior counsel appearing for the appellant and Mr. Kanmani Annamalai, learned Additional Government (Taxes) appearing for the respondent.

2. The appellant had filed writ petitions being W.P. Nos. 1966 to 1969 of 2015 for quashing the assessment order dated 29.12.2014 passed by the respondent. The Writ Court, while setting aside the impugned order on 29-01-2015, had directed the appellant to deposit 10% of the tax amount excluding penalty in each case, as volunteered by them, within a period of twelve weeks and also permitted to file its objection before 25-02-2015, and thereafter, the respondent/authority was given liberty to pass orders on merits.

3. The only contention raised by the learned counsel for the appellant before us is that once the writ petition has been allowed and the appellant is permitted to file its objections before the authority concerned and also, the respondent is 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 file its objection along with documents, if any, before the respondent 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

True Copy

Sub Assistant Registrar

To

1 The Commercial Tax Officer
Anna Salai Assessment Circle
PAPJM Building -Annexe
Greams Road, Chennai-6

2 The Assistant Commisisoner-
Commercial Taxes, Central Enforcement Wing I
(Inspection Officer) Anna Salai,
Assessment Circle, PAPJM Building - Annexe
Greams Road, Chennai-6

+4 cc's to M/s.Al.Gandhimathi, Advocate,SR.29443

+1 cc to Spl.Government Pleader,SR.29195.

Nm(co)
krd 24/6

W.A.Nos. 794 to 797 of 2015