IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.06.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.Nos.15477 to 15479 of 2015

M/s Coastal Oil and Gas Infrastructure
Private Limited, having its Corporate office at
No.7-1-23/2, 2nd Floor, Roxana Towers
Green Lands, Begumpet, Hyderabad 500 016
and its Principal Place of Business
Office at No.7, First Floor, EID Parry Compound
Judge Bungalow Road
Cuddalore 607 001 rep.by its
Deputy General Manager
Mr.G.George ...Petitioner in all the W.Ps.

-vs-

1. State of Tamil Nadu
through its Secretary
Commercial Taxes and Registration Department
Secretariat, Fort St.George
Chennai 600 009

2. Assistant Commissioner (CT) Cuddalore
(Town) Assessment Circle
Commercial Tax Office
No.8, Sub Jail Road
Manjakuppam
Cuddalore 607 001

3. Deputy Commissioner (CT)
Commercial Tax Office
No.8, Sub Jail Road
Manjakuppam
Cuddalore 607 001

4. Joint Commissioner (CT)
Government Building
4, Bharathiyar Street
Fort Round
Vellore 632 004

5. Commissioner of Commercial Taxes
Chepauk, Ezhilagam Complex
Chennai 600 005 ...Respondents in all the W.Ps.

Petitions under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorari, calling for the records of the impugned orders dated 11.5.2015 bearing reference TIN 33524383769/2012-13, 2011-12 & 2010-11 and the consequent Notices for Demands for Tax in Form 'O' dated 11.05.2015 and for Penalty and Interest in Form 'RR' dated 11.05.2015, in respect of the Assessment Years 2012-2013, 2011-2012 & 2010-2011 respectively, issued by the second respondent and quash the same.

For Petitioner : Mr.Krishna Srinivasan for
M/s S.Ramasubramaniam & Asso.

For Respondents : Mr.V.Haribabu
Addl.Government Pleader (Taxes)

ORDER

This Court, on an earlier occasion, in W.P.Nos.34873, 34875 & 34876 of 2014 dated 5.1.2015, passed the following order:-

> ''The petitioner has come forward with the writ petitions challenging the impugned order dated 05.12.2014 bearing reference 33524383769/2012-2013, 2010-2011 & 2011-2012 issued by the second respondent and to quash the same.
>
> 2. Learned counsel for the petitioner submitted that show cause notice dated 03.10.2014, giving 15 days time to submit the objection of the petitioner in writing, have been issued to the petitioner and the petitioner has replied to the show cause notice on 24.11.2014 and thereafter the petitioner has sought for extension of time, which was also given. He would further submit that before the expiry of period

to submit the explanation, the order dated 14.11.2014 was said to have been prepared and the petitioner was issued with the impugned order dated 05.12.2014 bearing reference 33524383769/2012-2013, 2010-2011 & 2011-2012. According to the petitioner, he has submitted the reply on 24.11.2014 within the extended time and the order dated 14.11.2014 is erroneous.

3. Learned counsel appearing for the respondents submitted that the impugned order has been passed prior to the receipt of the reply of the petitioner and that respondents have no objection to pass fresh orders, after giving the petitioner an opportunity of personal hearing.

4. In view of the submission made by the learned counsel for the respondents and the fact that the order dated 14.11.2014 has been passed without giving an opportunity of personal hearing to the petitioner, these writ petitions are allowed and the impugned orders are set aside. The petitioner is entitled to have an opportunity of personal hearing. The respondents are directed to fix the date for personal hearing any time in this month and after hearing the petitioner, pass appropriate orders within a period of thirty days from the date of hearing the petitioner. No costs. Consequently, connected M.P. is closed.''

2. This Court on 9.6.2015, while entertaining the present writ petitions, passed the following order:-

''This Court is unable to find any justification whatsoever in the impugned orders. The reason is that when this Court, by order dated 5.1.2015, has found fault with the respondents in not providing personal hearing to the petitioner and finally held that the petitioner would be entitled to an opportunity of personal hearing, on that score, when the respondents were directed to fix the date for personal hearing and after hearing the petitioner, the respondents were directed to pass appropriate orders, it is not known why the Assistant Commissioner (CT), Cuddalore Town Assessment Circle, the second respondent herein

> can pass the impugned orders without complying with the conditions mentioned in the order dated 5.1.2015.
>
> 2. Mr.Krishna Srinivas, learned counsel for the petitioner, drawing the notice of this Court to the subsequent event that took place on 16.3.2015, on which date one Mr.G.Natarajan, who heard and reserved the matter, got transferred to some other place, submitted that the successor in office, namely, the second respondent, in all fairness, should have complied with the direction of this Court by giving personal hearing and should have disposed of the matter on merits. As the impugned orders have been passed ignoring such direction, the same are liable to be set aside with a further direction to the second respondent to give the petitioner a personal hearing.
>
> 3. This Court, indeed, is not inclined to issue any more direction, as the direction given earlier on 5.1.2015 holds good even today. Therefore, the second respondent is directed to file an affidavit as to why he has ignored the specific direction, so as to enable this Court to pass appropriate orders on the next adjourned date. Post on 19.6.2015 ''for orders''.

3. Pursuant to the above direction, the second respondent has filed an affidavit taking a stand that he took charge of the post on 16.3.2015 after relieving the predecessor in office. He has also stated in his affidavit that his predecessor although had given personal hearing to the petitioner as directed by this Court vide order dated 5.1.2015, it is a fact that the petitioner had availed the opportunity of personal hearing on 23.2.2015 and one Mr.R.Venkata Rao, Vice President (F&A) of the petitioner company appeared along with his counsel and filed the typedset of documents containing 32 pages and other set of documents and thereupon reiterated the contentions raised in the objections. But, in the meanwhile, the previous Assessing Officer could not pass final orders, as he was transferred from the said post. However, his predecessor apprised him about the petitioner's case and explained in detail with a request to pass orders as directed by this Court, therefore, it was his reply that he was under the impression that since his predecessor heard the matter in detail, there was no need to issue notice calling

for objection once again. However, now he has tendered his unconditional apology, the same may be accepted as the Assessing Officer has got high respect to this Court, he prayed.

4. Mr.Krishna Srinivasan, learned counsel for the petitioner, reading out some of the averments made in the affidavit, submitted that they are not in good taste. No doubt, I find some merits in his submissions. However, as the second respondent has tendered his unconditional apology for not complying with the condition specified by this Court in W.P.Nos.34873, 34875 & 34876 of 2014 dated 5.1.2015 directing the Assessing Officer to give personal hearing to the petitioner, this Court, accepting the unconditional apology offered by him, by setting aside the impugned orders, hereby directs the second respondent to provide personal hearing to the petitioner by issuing a notice well in advance and pass appropriate orders on merits and in accordance with law expeditiously. With the above directions, the writ petitions are allowed. Consequently, M.P.Nos.1 of 2015 are closed. No costs.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government
Commercial Taxes and Registration Department
Fort St.George
Chennai 600 009

2. The Assistant Commissioner (CT)
Cuddalore (Town) Assessment Circle
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5. The Commissioner of Commercial Taxes
   Chepauk, Ezhilagam Complex
   Chennai 600 005

3 CCs to M/s S.Ramasubramaniam & Asso., Advocate SR.No. 37129, 31200, 31201

1 CC to the Government Pleader, SR.No. 31363

W.P.Nos.15477 to 15479 of 2015

KJI (CO)
PSI (31.07.2015)