IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.06.2015

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.15509 to 15512 of 2015
and M.P.Nos.1 & 2 of 2015

Tata Projects Limited [Petitioner in all]
Rep by its Company Secretary & Head Legal
Dr. A. Raja Mogili No.9 1st Floor AF Block
8th Street 11th Main Road Anna Nagar
Chennai 40

Vs

The Assistant Commissioner (CT)
Amaindakarai Assessment Circle
59 Taylors Road Dwalath Tower 7th Street
Chennai 10

[Respondent in all]

Writ Petitions filed under Article 226 of the Constitution of India seeking a writ of certiorari to call for the records on the files of the respondent herein in his TIN 33251022528/2010-11 to 2013-14 respectively dated 16.4.2015 and to quash the same

For petitioner : Mr.N.Sriprakash
For respondent : Mr.S.Kanmani Annamalai, AGP(T)

COMMON ORDER

Heard the learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Taxes), who takes notice for the respondent.

2. These four writ petitions have been filed by Tata Projects Limited, represented by its Company Secretary, challenging the impugned orders of the respondent dated 16.04.2015, on the ground that the respondent had failed to grant personal hearing to the representative of the petitioner Company and hence the same is liable to be quashed as per the laid down by this Court in the Judgment reported in 33 VST 333 (SRC Projects Ltd., vs. Commissioner of Commercial Taxes, Chennai).

3. The case of the petitioner is that the petitioner is a Company incorporated under the Companies Act, 1956 and a registered dealer both under the provisions of the Tamil Nadu Value Added Tax, 2006 (hereinafter referred as the VAT Act) and Central Sales Tax Act, 1956 (hereinafter referred to as the "Central Act") on the file of the respondent. They are engaged in the business of execution of various types of works contacts inside the State of Tamil Nadu. Whileso, the petitioner has filed returns for the period 2010-11 to 2013-14. In the meanwhile, when the petitioner place was inspected by the officers of the Enforcement Wing Department. They took a decision that there was short payment of VAT as well as erroneous availment of input tax credit on various counts. Consequently, the petitioner was issued with notices dated 27.01.2015 seeking for objections. According to the petitioner, vide letter dated, they initially sought time for furnishing objections, which was followed by another letter dated 06.03.2015, by which the petitioner sought for details of the alleged purchases and sales suppression which were referred to in the show cause notices and since there was no response, the petitioner vide letter dated 25.03.2015, while reiterating the request for furnishing the details as sought for earlier, proceeded to state its objections on merits, hence, the grievance of the petitioner is that after receipt of the notices, when the petitioner has specifically filed the aforementioned replies, they should have been afforded with personal hearing to explain the controversy raised by the respondent. However, without affording an opportunity, by stating that though sufficient opportunity was given to the dealer, they have failed to avail the same and by further stating that the objections were already discussed at the time of surprise inspection, the impugned orders were passed. Aggrieved over the same, these writ petitions are filed.

4.1 The learned counsel appearing for the petitioner would submit that the respondent has miserably failed to see that since the adjudication in question involved resolution of various factual disputes which involve examination of numerous documents, the representative of the petitioner Company ought to have been provided with an opportunity of personal hearing to explain the matter in detail to the Assessing Officer before passing final orders.

4.2 The learned counsel for the petitioner would further submit that as the respondent in the last paragraph of the impugned orders has specifically mentioned that objections were already discussed at the time of surprise inspection, the same would go to show that the approach adopted by the respondent is in clear violation of principles of natural justice.

5. Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Taxes) appearing for the respondent was unable to support the impugned orders with regard to the compliance of principles of

natural justice viz., affording reasonable opportunity as held by this Court in the Judgment reported in 33 VST 333 (SRC Projects Ltd., vs. Commissioner of Commercial Taxes, Chennai).

6. As far as the case in hand is concerned, a mere reading of the impugned orders show that the petitioner was not afforded an opportunity to explain their case to the Assessing Officer. Therefore, as rightly contended by the learned counsel for the petitioner, as per the aforementioned Judgment reported in 33 VST 333 cited supra, the impugned orders are liable to be quashed since the same are passed without giving an opportunity of personal hearing to the petitioner.

7. In view of the same, the impugned orders are set aside and the writ petitions are allowed. The matters are remanded to the respondent for fresh consideration of the case of the petitioner on merits and in accordance with law, after giving a personal hearing to the representative of the petitioner.

8. At this juncture, the learned counsel for the petitioner requested this Court to permit the petitioner to file the written submissions. As there is no impediment for the petitioner to file written submissions, this Court, permits the petitioner to do so. On receipt of the written submissions, the respondent is directed to pass appropriate orders on merits and in accordance with law, ofcourse, after giving personal hearing to the representative of the petitioner.

No costs. Connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

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To
The Assistant Commissioner (CT)
Amaindakarai Assessment Circle
59 Taylors Road Dwalath Tower 7th Street
Chennai 10

1 cc to Special Government Pleader.Sr.No.26420
1 cc to M/s.N.Inabarajan , Advocate Sr.No.26242

W.P.15509 to 15512 of 2015

ppa(co)
pmk.27.7.2015