IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2015

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.Nos.16866 to 16872 of 2015
and
M.P. Nos. 1 of 2015

M/s.Mount Exports Pvt. Ltd.
Now Amalgamated with
M/s.A.I.Enterprises Pvt. Ltd.
Rep by its Director K.V. Ramachandran
No.F-41A Anna Nagar East Chennai 102 ...Petitioner in all wps

Vs

The Assistant Commissioner (CT)
Amaindakarai Assessment Circle
No.59 Taylors Road Dowlath Tower
7th Floor, Chennai 10
[Respondent in all wps

PRAYER : These Writ petitions are filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus, calling for the records on the file of the respondent in TIN 33561023182 / 2007-08 to 2013-14 dt 25.2.2015 and quash the same as illegal contrary to the provisions of the Act principles of natural justice and fair play and direct the respondent to consider the objection, furnish details, provide reasonable opportunity and personal hearing.

For Petitioner :Mr.T.Pramodkumar Chopda
For Respondent :Mr.Kanmani Annamalai, AGP(Taxes)

C O M M O N O R D E R

Heard Mr.T.Pramodkumar Chopda, learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Taxes), who took notice for the respondent and with their consent, the main writ petitions are taken up for final diposal.

2. There are seven writ petitions filed by M/s Mount Exports Private Limited, challenging the impugned orders passed by the Assistant Commissioner (CT), Amaindakarai Assessment Circle in TIN 33561023182 / 2007-08 to 2013-14 dated 25.02.2015.

3.1 Mr.T.Pramodkumar Chopda, learned counsel for the petitioner contended that the impugned orders are unsustainable on the sole ground that when the petitioner on receipt of notices dated 30.04.2014, submitted replies dated 21.05.2014 on 23.05.2014 personally before the Assessing Officer, who received the same, contrary to the fact that the petitioner even though filed replies to the notices dated 30.04.2014, the Assessing Officer has passed the impugned orders, by wrongly mentioning that since the dealer did not file objections or replies, they are confirming the proposed turnover and ITC.

3.2 Further, the learned counsel for the petitioner, bringing to the notice of this Court to the replies dated 21.05.2014 filed personally by the petitioner, contended that after the submission of the said replies on 23.05.2014, the then Assessing Officer was transferred on 31.08.2014, consequently, the Commercial Tax Officer was given additional charge of the assessment circle. During the relevant period, the Commercial Tax department was reorganized as per G.O.Ms.No.23 dated 24.02.2014 and the post of Assistant Commissioner (CT) Addl. was abolished on 31.12.2014 and merged with the regular Assistant Commissioner (CT), Amaindakarai Assessment Circle. Subsequently, after the reorganization, the Amaindakarai Assessment Circle was bifurcated and part of the assessment circle was included with the Kilpauk Assessment Circle and remaining was retained with the Amaindakarai Assessment Circle itself.

3.3 Further, according to the learned counsel for the petitioner, since the office premises of the assessment circle during the relevant period was shifted from III Floor, Kuralagam Annexe to the present address at No.59, Taylors Road, Dowlath Tower, VII Floor, Chennai, the replies filed by the petitioner have been overlooked. Therefore, the learned counsel pleaded that the respondent, in all fairness, ought not to have held against the petitioner by stating that he has not filed any reply, even though the office of the respondent had received the replies filed by the petitioner.

4. Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Taxes) also, finding that the petitioner's replies have not been reflected in the assessment orders due to the subsequent events that happened, as mentioned by the learned counsel for the petitioner, the respondent had overlooked the replies, submitted that the matter may be remanded to the Assessing Officer for fresh consideration of the same on merits.

5. At this point of time, Mr.Pramodkumar Chopda, learned counsel for the petitioner sought liberty from this Court to the petitioner to file detailed replies for all the assessment years once again and he also pleaded that personal hearing may be granted to the petitioner before passing fresh orders.

6. This Court, accepting the above two requests made by the learned counsel for the petitioner, set aside the impugned orders and remand the matters to the Assessing Officer for fresh consideration of the entire matters. Since the replies filed by the petitioner appear to be brief, the petitioner is given liberty to file detailed replies and on receipt of the same, the Assessing Officer is directed to give notice of hearing to the petitioner well in advance and after affording an opportunity of personal hearing to the petitioner, appropriate orders are directed to be passed by the Assessing Officer on merits and in accordance with law as expeditiously as possible.

The writ petitions are disposed of in the above terms. No costs. Connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To
The Assistant Commissioner (CT)
Amaindakarai Assessment Circle
No.59 Taylors Road Dowlath Tower
7th Floor, Chennai 10

+1 cc to Mr.T.PramodKumar Chopda Advocate sr.29041/15
+1 cc to Special Government Pleader taxes sr.29193

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