IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.06.2015

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.Nos.17326 to 17330 of 2015
And
M.P.Nos.1 to 1 of 2015

TVL Pioneer Inc.
Rep. by its Mr.G.Sundaresan,
Accounts Manager, Authorised Signatory
...Petitioner in all the W.Ps.

Vs.

The Assistant Commissioner (CT),
Aminjikarai Assessment Circle,
No.59, Taylors Road,
Chennai - 10. ...Respondent in all the W.Ps.

Common Prayer:
Writ petitions 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 TIN/33251023498/2009-10, TIN/33251023498/2010-11, TIN/33251023498/2011-12, TIN/33251023498/2012-13 and TIN/33251023498/2013-14 respectively dated 22.05.2015 and quash the same and direct the respondent to furnish the audit report, details of the cancellation of registration of the sellers, thereafter to receive the documents objection from the petitioner in support of its claim and redo the assessment as per the provisions of the TNVAT ACT after giving a fair and reasonable opportunity of personel hearing.

For Petitioner : Mr.S.N.Kirubanandam

For Respondent : Mr.S.Kanmani Annamalai
Additional Government Pleader (T)

COMMON ORDER

There are five writ petitions filed by Pioneer Inc. Rep. by its Accounts Manager, Authorised Signatory Mr.G.Sundaresan, challenging the impugned order passed by the Assistant Commissioner (CT) Aminjikarai Assessment Circle in TIN No.33251023498 for the assessment years 2009-10, 2010-11, 2011-12, 2012-13 and 2013-14 respectively dated 22.05.2015, to quash the same with further direction to the respondent to furnish the audit report, details of the cancellation of registration of the sellers and thereafter to receive the documents objection from the petitioner in support of its claim and redo the assessment as per the provisions of the TNVAT ACT after giving a fair and reasonable opportunity of personal hearing.

2.Mr.S.Kanmani Annamalai, learned Additional Government Pleader (T) takes notice for the respondent.

3.The petitioner being manufacturer and 100% exporter of leather and textile garments is also an assessee on the files of the respondent herein. The petitioner was also self assessed under the Tamil Nadu Value Added Tax Act, 2006 for the assessment years 2009-10 to 2013-14 which also became final. In the meanwhile, the petitioner's business premises was inspected by the Audit Wing on 22.11.2013. Based on the audit report, respondent passed the impugned order without affording opportunity of being heard.

4.One another grievance of the petitioner is that when the respondent issued notice dated 28.04.2014, the petitioner by a letter dated 27.05.2014 sought for time till 31.07.2014 to file objection along with relevant supporting documents. In the said letter, the petitioner has also specifically asked for providing an opportunity of personal hearing to explain the matters on the basis of the documents. Therefore, the grievance of the petitioner is that the petitioner has sought for time to produce the relevant documents, since the respondent has mentioned in his notice the proposal to reverse ITC to the extent of Rs.12,434/-, Rs.3,34,094/-, Rs.2,139/-, Rs.5,023/- and Rs.2,08,583/- respectively and for cancellation of registration of the sellers, unless the details of the cancellation of registration of the sellers are received by the petitioner, it will be highly difficult to give a full fledged reply. But in the present cases, although time was granted by the respondent, there was no opportunity of personal hearing granted to the petitioner to explain the case. As a result, the petitioner has been put to great prejudice and hardship.

5.Relying on an order of the Hon'ble Division Bench of this Court dated 25.09.2001 made in W.P.Nos.8766 to 8768 of 2000, the learned counsel appearing for the petitioner would submit that a circular dated 05.04.1984 also says that a reasonable opportunity should be given which indicates that the personnel should be given a personal hearing as sought for in his reply dated 27.05.2014. The petitioner has been waiting anxiously for a notice from the respondent to him to explain his case, but all of a sudden, the impugned order has been passed and now the petitioner is having all the relevant documents. Therefore, he contends that if last and final chance is given, the petitioner will be able to explain his case.

6.Mr.S.Kanmani Annamalai, learned Additional Government Pleader (T) appearing for the respondent would submit that no doubt the petitioner in his letter dated 27.05.2014 sought for time till 31.07.2014 and he was given more than 11 months time, but still it is not known why he has not placed all the documents which he claims to be in possession before the respondent. However, he submits that personal hearing was not given.

7.This Court finding that no personal hearing was given and as in similar occasion it has been held that the assessee should be given a personal hearing to place the entire facts, is inclined to remand the matter to the respondent. Accordingly, the matter is remanded back to the respondent for fresh consideration on merits. The respondent shall provide the audit report and details of the cancellation of registration of the sellers and after furnishing all those details, the respondent shall provide an opportunity of personal hearing to the petitioner and thereafter, pass orders on merits as expeditiously as possible.

8.The writ petitions are disposed of accordingly. No costs. Consequently, the connected miscellaneous petitions are also closed.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

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To

1. The Assistant Commissioner (CT),
   Aminjikarai Assessment Circle,
   No.59, Taylors Road,
   Chennai - 10.

+1 cc to Mr.S.N.Kirubanandam, Advocate,vide sr.30096
+1 cc to special Govt.Pleader(Taxes), vide sr.29931.

W.P.Nos.17326 to 17330 of 2015
And
M.P.Nos.1 to 1 of 2015

gj(co)
kra(28/07)