

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.06.2015

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.Nos.18279 and 18280 of 2015
and M.P.No.1 of 2015 in W.P.No.18279/15
and M.P.Nos.1 & 2 of 2015 in W.P.No.18280/15

Inter-Globe Aviation Ltd having its office at
Link Building
Kamaraj Domestic Terminal
Chennai Airport Trisoolam Chennai
Kancheepuram District
rep. by its Authorized Signatory
Mr.E.Murugesan

[Petitioner in both wps
Vs

1 Joint Commissioner
(Commercial Taxes) Chennai (East) Division
PAPJM Building 3rd Floor Commercial Taxes
Complex Greams Road Chennai-6

2 Assistant Commissioner
(Commercial Taxes) Nandambakkam Assessment
Circle No.17 Loganatha Nagar 2nd Street
100 Feet Road Choolaimedu Chennai-94

[1st & 2nd respondents in W.P.18279/15]

1 Assistant Commissioner
(Commercial Taxes) Nandambakkam Assessment
Circle No.17 Loganatha Nagar 2nd Street
100 Feet Road Choolaimedu Chennai-94

2 Joint Commissioner
(Commercial Taxes) Chennai (East) Division
PAPJM Building 3rd Floor Commercial Taxes
Complex Greams Road Chennai-6

[1st & 2nd respondents in W.P.18280/15]

3 Appellate Deputy Commissioner
(Commercial Taxes) Chennai (East) Greams
Road Chennai-6

[3rd Respondent in both WPs]

PRAYER : The Writ petition No.18279/15 is filed under Article 226 of the Constitution of India praying for a Writ of certiorari to call for the records of the 1st respondent impugned order No.RC.1917/2015/A-10 dated 15.5.15 and quash the same and direct the respondent NO.1 to admit re-hear the matter afresh and dispose the

same on merits

PRAYER : The Writ petition No.18280/15 is filed under Article 226 of the Constitution of India praying for a Writ of certiorari to call for the records of the order dated 24.12.2014 in File No. TIN : 33120844750/2014-15 issued by the respondent No.1 under Section 25 (1) of the TNVAT Act and quash the same.

For Petitioner : Mr.C.Natarajan, Senior Counsel
for Mr.Karthik Sundaram

For Respondents : Mr.ANR.Jayapratap, GA(T)

O R D E R

Heard Mr.C.Natarajan, learned Senior Counsel appearing for the petitioner and Mr.ANR.Jayapratap, learned Government Advocate (Taxes) who took notice for the respondents and with their consent, the main writ petitions are taken up for disposal, as they involve short question.

2. While W.P.No.18279 of 2015 is filed challenging the impugned rejection order passed by the Joint Commissioner (Commercial Taxes), Chennai (East) Division, in No.RC.1917/2015/A-10 dated 15.05.2015, W.P.No.18280 of 2015 is filed challenging the order of the Assistant Commissioner (Commercial Taxes) Nandambakkam Assessment in TIN : No.33120844750/2014-15 dated 24.12.2014 issued under Section 25(1) of the TNVAT Act.

3. Mr.C.Natarajan, learned Senior Counsel appearing for the petitioner assailing the impugned order dated 24.12.2014 contended that the first respondent in W.P.No.18280 of 2015, the Assistant Commissioner (Commercial Taxes), Nandambakkam Assessment, overlooking the fact that the assessment year has come to an end on 31.03.2015, has wrongly passed the provisional assessment. While passing the provisional assessment under Section 25(1) of the TANVAT Act, confirming the proposal, has also levied penalty under Section 27(3) of the TANVAT Act, instead of levying interest under Section 42(3) of the Act, which can be done only after passing the final assessment order. Adding further, learned Senior Counsel for the petitioner would submit that the petitioner has also filed a revision petition before the Joint Commissioner(C T), Chennai (East), which was dismissed by order dated 15.05.2015.

Aggrieved over the same, the petitioner is before this Court.

4. The predicaments faced by the petitioner as pleaded by the learned Senior Counsel for the petitioner is that the petitioner has been visited with two assessment orders, one under Section 25(1) of the TNVAT Act and the other under Section 27(3) of the TNVAT Act. The petitioner has to file an appeal as against the order passed under Section 27(3) and that apart he has also to prefer a revision against the order passed under Section 25(1).

5. It is submitted by the learned counsel on either side that the problem faced by both the petitioner and the respondents in these cases would be unless a final order is passed, the order challenged against the penalty cannot be looked into by the revisional authority, as a result, the petitioner would be put to unimaginable hardships. Therefore, the learned Senior Counsel for the petitioner has sought for interference of this Court.

6. Mr.ANR. Jayapratap, learned Government Advocate (Taxes) appearing for the respondents fairly submitted before this Court that the 1st respondent Assistant Commissioner in all fairness could have passed the final assessment order, when the assessment year itself came to an end on 31.03.2015.

7. This Court finds merits on the submission made by the learned Senior Counsel for the petitioner.

8. Repeatedly this Court time and again, finding fault with the similar approach adopted by the Assessing Officer in passing the provisional assessment, while interfering with the provisional assessment order has directed the respondent Assessing Officer to pass final orders.

9. In that view of the matter, while setting aside the impugned order of the Assistant Commissioner (Commercial Taxes) Nandambakkam Assessment in TIN : No.33120844750/2014-15 dated 24.12.2014, this Court, hereby directs the said authority to pass final assessment order, after issuing notice well in advance and after affording an opportunity of personal hearing to the petitioner.

10. In view of the above order passed, nothing survives in W.P.No.18280 of 2015 and hence, the same is closed.

No costs. Connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To,

- 1 Joint Commissioner
(Commercial Taxes) Chennai (East) Division
PAPJM Building 3rd Floor Commercial Taxes
Complex Greams Road Chennai-6
 - 2 Assistant Commissioner
(Commercial Taxes) Nandambakkam Assessment
Circle No.17 Loganatha Nagar 2nd Street
100 Feet Road Choolaimedu Chennai-94
 - 3 Assistant Commissioner
(Commercial Taxes) Nandambakkam Assessment
Circle No.17 Loganatha Nagar 2nd Street
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 - 4 Joint Commissioner
(Commercial Taxes) Chennai (East) Division
PAPJM Building 3rd Floor Commercial Taxes
Complex Greams Road Chennai-6
 - 5 Appellate Deputy Commissioner
(Commercial Taxes) Chennai (East) Greams
Road Chennai-6
- +1 cc to Special Government Pleader sr.31988
+2 ccs to Mr.K.S.Karthik Advocate sr.31880

W.P.Nos.18279 and 18280 of 2015

aa31/07/2015

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