IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 30.01.2015

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THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P. Nos.1863, 2012, 2048, 2159 & 2185 of 2015

Amar Communications
rep. by its Manager Jitendra Jain .. Petitioner in all cases

Vs.

The Assistant Commissioner (CT),
Kodambakkam Assessment Circle,
Chennai-600 006. .. Respondent in all cases

Prayer in all the cases:- Writ Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records relating to the Assessment Order TIN 33310863027/ 2012-13, 2010-11, 2009-10, 2007-08 and 2011-12 respectively dated 29.12.2014, 26.12.2014, 29.12.2014, 16.12.2014 and 29.12.2014 respectively passed by the respondent and to quash the same as arbitrary and illegal.

For Petitioner in all the cases : Mr.Joseph Prabakar

For Respondent in all the cases : Mr.A.R.Jaya Pratap, G.A. (T)

COMMON ORDER

The petitioner has come forward with these writ petitions challenging the impugned orders dated 29.12.2014, 26.12.2014 and 16.12.2014 bearing reference TIN 33310863027/2012-13, 2010-11, 2009-10, 2007-08 and 2011-12 respectively, issued by the respondent and to quash the same.

2.Learned counsel for the petitioner submitted that the petitioner is entitled to be heard in person on the personal hearing and he cannot be deprived of by the respondent, whatever may be the reason.

3.Learned Government Advocate for the respondent would submit that as per Section 27 of the Tamil Nadu Value Added Tax Act, 2006, there is no need for personal hearing.

4.On reply, learned counsel for the petitioner would submit that the respondent is not clear under which provision the order has been passed. When an order is passed either under Section 22 or under Section 27 of the Tamil Nadu Value Added Tax Act, 2006, opportunity of personal hearing should be given to the petitioner. Learned counsel for the petitioner agreed to pay 10% of the payment.

5.However, this Court makes it clear that Sections 22 and 27 of the Act have to be read with harmoniously. I find force in the contention of the petitioner to set aside the order on the sole ground that no opportunity has been given to the petitioner. The impugned orders are set aside and the matter is remitted to the original authority. Accordingly, these writ petitions are allowed with a direction that the petitioner shall appear before the authority concerned on 18.02.2015 and shall make his submissions/ objections. Based on the objections, which are going to be submitted by the petitioner, the authorities may pass appropriate orders, on merits, not being influenced by this order. In case, the petitioner fails to avail the opportunity on 18.02.2015 for personal hearing for the reason whatsoever, the authorities are empowered to pass fresh orders, on merits and in accordance with law. No costs. Consequently, connected M.Ps are closed.

6.It is also made clear that if there is any excess input paid by the petitioner, the same can be adjusted towards 10% of payment to be paid by the petitioner.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

vga

To

The Assistant Commissioner (CT),
Kodambakkam Assessment Circle,
Chennai-600 006.

1 cc to Mr. Joseph Prabakar, Advocate, Sr. 4971
1 cc to the Spl.Government Pleader, Sr. 4572

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BR (CO)
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