IN THE HIGH COURT OF JUDICATURDE AT MADRAS

Dated: 29.01.2015

Coram

The Honourable Mr.Justice S.VAIDYANATHAN

W.P.Nos.1966 to 1969 of 2015
and
M.P.No.1 of 2015(in all)

M/s.Shinago International(India)
Private Ltd.,rep.by its Director,
Shivgan K.Patel .... Petitioner in all the W.P.s

vs.

1. The Commercial Tax Officer,
Anna Salai Assessment Circle,
PAPJM Building-Annexe,
Greams Road,
Chennai-600 006

2. The Assistant Commissioner-
Commercial Taxes,
Central Enforcement Wing (Inspection Officer)
Anna Salai Assessment Circle,
PAPJM Building Annexe,
Greams Road,
Chennai-600 006 .... Respondents in all the W.Ps.

Writ petitions filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus to call for the records of the first respondent herein under Ref.No.TIN.33840600884/2011-12 to 2014-15, dated 29.12.2014, respectively, and to quash the same and direct the respondents to afford a reasonable opportunity of hearing to the petitioner for production of documents.

For Petitioner : Mr.AR.L.Sundaresan,Sr.counsel
for Ms.AL.Ganthimathi
in all W.Ps.

For respondent : Mr.A.N.R.Jayapradhap,G.A.(T)
in all W.Ps.

COMMON ORDER

The petitioner has come forward challenging the order dated 29.12.2014. The main contention raised by the petitioner is that the first respondent ought not to have passed the Impugned Proceedings dated 29.12.2014, when it was the last date for filing a reply. Though the petitioner has raised other objections, which are mentioned in the grounds, when this Court pointed out that he has got alternative remedy and this Court will not entertain the Writ Petitions on the other grounds and that this Court is going to direct the petitioner to approach the Appellate Authority concerned, the petitioner confined to ground no.1, which is stated supra.

2.The authorities have given time for the petitioner to reply, even though petitioner had received notice well in advance and has given objections, the proposed turnover, tax and ITC were confirmed by the authority.

3.This Court also pointed out that unless and until some portion of the amount is deposited by the petitioner, this Court may not entertain the Writ Petitions. Hence at the request of the petitioner, matter stood adjourned today, 29.01.2015.

4.Today, the petitioner fairly submitted that he would deposit 10% of the tax excluding penalty determined by the authority, so that he may be given an opportunity of personal hearing by the authority. The learned counsel for the petitioner requested twelve weeks time to deposit the amount, as the petitioner submitted that the Industry is really being suffered loss and accumulated loss is more than Rs.100 Crores.

5.Without rendering any findings on the merits of the matter and that the petitioner is ready and willing to deposit 10% of the arrears of tax, excluding penalty determined by the authority and without prejudice to the contention of the parties, the petitioner is given liberty to raise all the factual and legal submissions raised herein before the Authority, by then, the Authority shall pass orders on merits and in accordance with law, after affording opportunity of personal hearing to the petitioner and without being influenced by the earlier Order or influenced by the Order in these Writ Petitions, within a period of four weeks, as per conditions laid down as follows:-

(i) The petitioner shall deposit 10% of the amount excluding penalty within a period of twelve weeks from the date of receipt of copy of this order.

(ii) The petitioner shall appear before the authority concerned on 25.02.2015 and make his written submissions / objections and also support his contention with documents, if any and it is open to the authority to grant further time, if required and pass orders within a period of four weeks from the date of hearing, as the case may be.

(iii) The proceedings of the order shall be kept in a sealed cover till the amount of 10% is deposited by the petitioner, as the petitioner sought for twelve weeks time from the date of receipt of copy of the order.

(iv) In case the petitioner fails to pay the 10% of the amount, as agreed by the petitioner, within a period of twelve weeks, the original order impugned in these Writ petitions shall stand restored and the respondent is empowered to initiate appropriate action in accordance with law.

6.In the result, these Writ Petitions are disposed of and the impugned order is set aside on the above conditions. Consequently connected miscellaneous petitions are closed. No costs.

msk

-s/d-
Assistant Registrar(CS-II)
Dt:19/2/2015

True Copy

Sub-Assistant Registrar

To

1. The Commercial Tax Officer,
   Anna Salai Assessment Circle,
   PAPJM Building-Annexe,
   Greams Road,
   Chennai-600 006

2. The Assistant Commissioner-
Commercial Taxes,
Central Enforcement Wing (Inspection Officer)
Anna Salai Assessment Circle,
PAPJM Building Annexe,
Greams Road,
Chennai-600 006

+ 4 ccs to M/s.AL.Ganthimathi, Advocate SR 4668.

+ 1 cc to the Spl.Govt.Pleader, High Court, Madras 4812

gp(co)
prk20/2

W.P.Nos.1966 to 1969
of 2015