IN THE HIGH COURT OF JUDICATURDE AT MADRAS

DATED: 29.01.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos.2002 to 2006 of 2015
and
M.P.No.1 of 2015(in all)

M/s.Bharat Aluminium Co.Ltd.,
rep.by its Manager Taxation/
Authorized Signatory
Mr.PravinSaharia ...Petitioner in all the W.Ps

vs.

The Assistant Commissioner,
Commercial Tax Department,
Madhavaram Assessment Circle,
No.170, G.N.T.Road,
Puzhal,
Chennai-600 066 ...Respondent 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 comprised in the impugned orders in TIN.33460944182/2008-09 2009-2010, 2010-2011, 2011-2012 and 2012-13, respectively, dated, 24.12.2014, on the file of the respondent and to quash the same and consequently direct the respondent to give the petitioner a reasonable opportunity of being heard.

For Petitioner : Mr.Mohammed Shaffiq
in all the W.Ps.

For respondent : Mr.V.Haribabu,A.G.P.(T)
in all the W.Ps.

COMMON ORDER

In all these writ petitions, the petitioner is one and the same and the assessment years involved are 2008-09 to 2012-13, respectively. Since the issue involved is one and the same, all these writ petitions are disposed of by this common order.

2. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondent.

3. The learned counsel for the petitioner submitted that on 4.6.2013, the authorities from Enforcement Wing (Central) had conducted an audit at Ponniamanmedu Depot and they served notice on one Mrs.Rajeevi, Deputy Manager of NSIC, who is not an authorised person to receive summons, notices or orders on behalf of M/s.BALCO. Since notice has not been serviced on the authorised person, the learned counsel submitted that the petitioner was not in a position to make proper representation and the impugned orders are liable to be set aside on that ground.

4. Since the petitioner is a company, notice can be served on any person employed in the company. But in this case, the notice has been served on a person, who is not an employee of M/s.BALCO. It is also seen that the application for rectification under Section 84 of the Tamil Nadu Value Added Tax Act, 2006, is pending with the respondent. Therefore, in order to give one more opportunity to the petitioner, without going into the merits of the case, the petitioner is directed to appear before the authority concerned on 16.2.2015 and submit all his objections, including documentary evidence, in support of his contention, and avail personal hearing. In case, the petitioner fails to avail the opportunity and appear before the authority concerned on 16.2.2015, based on the materials available on record, the authority concerned shall pass orders on merits and in accordance with law and the petitioner shall not contend at a later point of time that they were not given any opportunity.

5. The writ petitions are disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

msk

To

The Assistant Commissioner,
Commercial Tax Department,
Madhavaram Assessment Circle,
No.170, G.N.T.Road,Puzhal,
Chennai-600 066

5 CCs to Mr.Mohammed Shaffiq, Advocate SR.No. 4844, 4841, 4843, 4842 & 4840

1 CC to the Spl. Government Pleader, SR.No.4804

W.P.Nos.2002 to 2006 of 2015

BR (CO)
PSI (05.02.2015)