IN THE HIGH COURT OF JUDICATURDE AT MADRAS

Dated: 29.01.2015

Coram

The Honourable Mr.Justice S.VAIDYANATHAN

W.P.Nos.2053 and 2054 of 2015
and
M.P.Nos.1 and 2 of 2014

M/s.JSW Steel Limited,
rep.by its Vice President,
Finance & Accounts,
Periyanaickerpalayam,
Coimbatore-641 020 .. Petitioner in both the W.Ps.

vs.

The Assistant Commissioner(CT)
Thudilayur Assessment Circle,
Chinthamani Super Market Compound,
Coimbatore-641 002 ... Respondent in both the W.Ps.

Prayer in W.P.No.2053 of 2015: Writ petition 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 respondent comprised in his Assessment Order bearing Ref.TIN:33542021711/2010-2011 dated 8.1.2015 for the Assessment Year 2010-11 and to quash the same as arbitrary, illegal and violative of the principles of natural justice and consequently direct the respondent to provide the petitioner an opportunity of fresh hearing to be conducted by such officer as this Hon'ble Court may deem fit and proper in the matter pertaining to the revision of assessment for the assessment year 2010-11 under the Tamil Nadu Value Added Tax Act, 2006, after affording opportunity to the petitioner to produce additional documents and participating in the personal hearing.

Prayer in W.P.No.2054 of 2015: Writ petition 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 respondent comprised in his Assessment Order bearing Ref.TIN:33542021711/2011-2012 dated 8.1.2015 for the Assessment Year 2011-12 and to quash the same as arbitrary, illegal and violative of the principles of natural justice and consequently direct the respondent to provide the petitioner an opportunity of fresh hearing to be conducted by such officer as this Hon'ble Court may deem fit and proper in the matter pertaining to the revision of assessment for the assessment year 2011-12 under the Tamil Nadu Value Added Tax Act, 2006, after affording opportunity to the petitioner to produce additional documents and participating in the personal hearing.

For Petitioner : Mr.Satish Parasaran
in both the W.Ps.

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

COMMON ORDER

In both these writ petitions, the petitioner is one and the same and the assessment years involved are 2010-11 and 2011-12, respectively. Since the issue involved is one and the same, both 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 all the particulars, as required by the authority concerned, were furnished and the petitioner has also submitted a reply to the further clarification of the respondent, dated 29.12.2014, through one Joseph, on 6.1.2015. This letter was presented to the authority concerned on 7.1.2015. The learned counsel further submitted that the said Joseph is only a clerk and not the Accounts Officer and he has been entrusted to present the objection, dated 6.1.2015, before the authority concerned and he was not directed to appear for the personal hearing. Unfortunately, the respondent has made an endorsement as if the said Joseph has appeared for personal hearing, in the capacity of Accounts Officer, and thereby, came to the conclusion that personal hearing was given on 7.1.2015 and passed the orders impugned in these writ petitions.

4. It could be seen from the reply of the petitioner, dated 6.1.2015, more particularly, paragraph No.12, that the petitioner has sought for personal hearing and stated that the grounds raised are without prejudice to one another and craves leave to add/amend the grounds raised, if necessary, and to place

fresh grounds at the time of personal hearing. They have also sought for another 15 days' time to provide further required details and documents in this regard.

5. From the above narration of facts, it is discernible that the petitioner has not authorized any one to represent their case and that they requested for a personal hearing. When it is stated that the said Joseph has not been authorised to represent the petitioners case before the authority concerned, the authority ought not to have treated the date of presentation of the letter dated 7.1.2015 as the date of personal hearing and passed the impugned orders on the very next day i.e. on 8.1.2015, in violation of principles of natural justice. Therefore, on that score, the impugned orders are set aside. The petitioner is directed to appear before the authority concerned on 17.2.2015 and raise all the grounds/objections available to them. In case, the petitioner fails to avail the opportunity and appear before the authority concerned on 17.2.2015, based on the available records and taking note of the submissions filed by the petitioner, on 6.1.2015, the authority concerned shall pass orders on merits and the petitioner shall not contend at a later point of time that they were not given an opportunity.

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

Sd/-
Asst.Registrar (Lok adalat)

/true copy/
Sub Asst. Registrar

msk

To

The Assistant Commissioner(CT)
Thudilayur Assessment Circle,
Chinthamani Super Market Compound,
Coimbatore-641 002

2 ccs to Mr. Sathish Parasaran, Advocate, Sr. 4628, 4630
1 cc to Special Government Pleader (Taxes), Sr. 4805

W.P.Nos.2053 and 2054
of 2015

GJ (CO)
kk 12/2