IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2015

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.Nos.20698 to 20700 of 2015
and M.P.Nos.1 of 2015

Tvl. R.V.Refractories [Petitioner in all WPs]
Represented by its Authorised Representative
J.Srikanth
No.388 Sidco Industrial Estate
Ambattur Chennai-98.

Vs

The Assistant Commissioner(CT)
Pattaravakkam Assessment Circle
No.5 1st Floor High Court Colony
Villivakkam, Chennai-49. [Respondent in all WPs]

Petitions filed under Article 226 of the Constitution of India to issue a Writ of certiorarified mandamus to call for the records on the files of the respondent in TIN. 33541360462/2007-08, 2009-10 and 2010-11 respectively dated 5.6.2015 and quash the same as being contrary to the principles of natural justice without jurisdiction and authority of law and further direct the respondent to pass order afresh on merits and in accordance with law.

For Petitioner : Mr.R.Senniappan
For Respondent : Mr.S.Kanmani Annamalai, AGP(T)

C O M M O N O R D E R

Heard the learned counsel for the petitioner and the learned Government Advocate (Taxes).

2. The petitioner has come forward with these writ petitions challenging the orders of the respondent dated 05.06.2015 and to direct the respondent to pass order afresh on merits and in accordance with law.

3.1 The petitioner, who is a manufacturer of refractory materials is a registered dealer under the TNVAT Act, 2006 as well as CST Act, 1956 and an assessee on the files of the respondent herein. Three assessment orders in respect of the assessment years 2007-08, 2009-10 and 2010-11 were served on the petitioner at a time on 16.06.2015 stating that for the notices dated 21.03.2012, which were issued proposing to disallow the claim of entire ITC on the ground that the petitioner had not filed the original purchase invoices for verification, there was no reply and hence the proposal was confirmed as it is on 05.06.2015, after a period of three and half years from the date of service of notices dated 21.03.2012. According to the petitioner, they filed replies dated 16.04.2012, which is evident from the acknowledgement obtained from the office of the respondent.

3.2 It is the contention of the petitioner that they received notices dated 21.03.2012 not only for the assessment years in question, but also for the assessment years 2006-07 to 2010-11 and objections were filed on 16.04.2012 by stating that the original invoices had already been produced before the Enforcement Authority at the time of inspection on 09.07.2010 and requesting to fix time so as to produce once again all the input tax invoices for verification. Though the reply having been received by the respondent, no orders have been passed except the present impugned orders. Hence, the petitioner is before this Court.

4. It is evident that upon receipt of notices dated 21.03.2012, the petitioner, by letter dated 16.04.2012, had intimated that they have produced all the required invoices as well as copies of necessary documents. The petitioner also undertook to file copies of invoices if required by the respondent once again. Thereafter, nothing was forthcoming from the respondent, on the other hand, the orders came to be passed on 05.06.2015, observing that the dealer had not filed any reply. However, the letter dated 16.04.2012 was received by the respondent under acknowledgement on the same date. Hence, this Court finds it appropriate to direct the respondent to give one more opportunity for filing of invoices as well as objections if any.

5. Hence, the impugned orders dated 05.06.2015 are set aside and the matters are remanded to the respondent for fresh consideration. The petitioner is directed to produce all the invoices as well as any of the relevant documents, within a period of two weeks from the date of receipt of a copy of this order along with their objections if any. On such presentation, the respondent shall consider the same and pass appropriate orders, on merits and in accordance with law, within a period of four weeks thereafter. It is made clear that if the petitioner fails to avail this opportunity, it is open to the respondent to pass appropriate orders and recover the amount demanded.

The writ petitions are disposed of with the above directions. No costs. Connected miscellaneous petitions are closed.

rg

s/d-
Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

To

The Assistant Commissioner(CT)
Pattaravakkam Assessment Circle
No.5 1st Floor High Court Colony
Villivakkam, Chennai-49.

+ 1 cc to Mr.R.Senniappan, Advocate SR 42945

+ 1 cc to Spl.G.P.(T) SR 42589

rv(co)
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