IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.07.2015

CORAM:

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.Nos.20755 to 20762 of 2015
and
M.P.Nos.1 and 2 of 2015

M/s.Perumal Steels,
rep.by its Proprietor T.Muralidharan
47, Rathinasamypuram,
Salem - 636 009. ...Petitioner in all W.Ps

Vs.

1. The Assistant Commissioner (CT),
Leigh Bazaar Circle,
Salem,

2. The Appellate Deputy Commissioner (CT),
Salem. ...Respondents in all W.Ps

PRAYER: Writ Petition in W.P.No.20755 of 2015 is filed under Article 226 of the Constitution of India seeking for the relief of issuance of writ of certiorari to call for records of the 1st respondent in TIN:33722620878/2013-14 dated 12.12.2014 and culminating in the order of the 2nd respondent in VAT A.P.No.84/15 dated 30.04.2015 and quash the order dated 12.12.2014 of the 1st respondent culminating in the order dated 30.4.2015 of the 2nd respondent passed therein.

Writ Petition in W.P.No.20756 of 2015 is filed under Article 226 of the Constitution of India seeking for the relief of issuance of writ of certiorari to call for records of the 1st respondent in TIN:33722620878/2006-07 dated 12.12.2014 and culminating in the order of the 2nd respondent in VAT A.P.No.77/15 dated 30.04.2015 and quash the order dated 12.12.2014 of the 1st respondent culminating in the order dated 30.4.2015 of the 2nd respondent passed therein.

Writ Petition in W.P.No.20757 of 2015 is filed under Article 226 of the Constitution of India seeking for the relief of issuance of writ of certiorari to call for records of the 1st respondent in TIN:33722620878/2007-08 dated 12.12.2014 and culminating in the order of the 2nd respondent in VAT A.P.No.78/15 dated 30.04.2015 and quash the order dated 12.12.2014 of the 1st respondent culminating in the order dated 30.4.2015 of the 2nd respondent passed therein.

Writ Petition in W.P.No.20758 of 2015 is filed under Article 226 of the Constitution of India seeking for the relief of issuance of writ of certiorari to call for records of the 1st respondent in TIN:33722620878/2008-09 dated 12.12.2014 and culminating in the order of the 2nd respondent in VAT A.P.No.79/15 dated 30.04.2015 and quash the order dated 12.12.2014 of the 1st respondent culminating in the order dated 30.4.2015 of the 2nd respondent passed therein.

Writ Petition in W.P.No.20759 of 2015 is filed under Article 226 of the Constitution of India seeking for the relief of issuance of writ of certiorari to call for records of the 1st respondent in TIN:33722620878/2009-10 dated 12.12.2014 and culminating in the order of the 2nd respondent in VAT A.P.No.80/15 dated 30.04.2015 and quash the order dated 12.12.2014 of the 1st respondent culminating in the order dated 30.4.2015 of the 2nd respondent passed therein.

Writ Petition in W.P.No.20760 of 2015 is filed under Article 226 of the Constitution of India seeking for the relief of issuance of writ of certiorari to call for records of the 1st respondent in TIN:33722620878/2011-12 dated 12.12.2014 and culminating in the order of the 2nd respondent in VAT A.P.No.82/15 dated 30.04.2015 and quash the order dated 12.12.2014 of the 1st respondent culminating in the order dated 30.4.2015 of the 2nd respondent passed therein.

Writ Petition in W.P.No.20761 of 2015 is filed under Article 226 of the Constitution of India seeking for the relief of issuance of writ of certiorari to call for records of the 1st respondent in TIN:33722620878/2012-13 dated 12.12.2014 and culminating in the order of the 2nd respondent in VAT A.P.No.83/15 dated 30.04.2015 and quash the order dated 12.12.2014 of the 1st respondent culminating in the order dated 30.4.2015 of the 2nd respondent passed therein.

Writ Petition in W.P.No.20762 of 2015 is filed under Article 226 of the Constitution of India seeking for the relief of issuance of writ of certiorari to call for records of the 1st respondent in TIN:33722620878/2010-11 dated 12.12.2014 and culminating in the order of the 2nd respondent in VAT A.P.No.81/15 dated 30.04.2015 and quash the order dated 12.12.2014 of the 1st respondent culminating in the order dated 30.4.2015 of the 2nd respondent passed therein.

For Petitioner in all W.Ps	:	Mr.A.Thiyagarajan
For Respondents in all W.Ps	:	Mr. Manoharan Sundaram, Addl.Govt.Pleader (Taxes)

COMMON ORDER

These eight writ petitions have been directed against the impugned orders passed by the 2nd respondent - Appellate Deputy Commissioner (CT), Salem dismissing the appeals holding that the petitioner/ assessee had violated Rule 7(1) of the TN VAT Act, 2006.

2. Learned counsel appearing for the petitioner/ assessee in support of the prayer submitted that when the petitioner is aggrieved by the assessment orders passed by the 1st respondent - Assistant Commissioner (CT) Salem and filed appeals before the 2nd respondent - Appellate Deputy Commissioner (CT), Salem on the sole ground that the 1st respondent had not followed the mandatory provision adumbrated under Section 27(4) of the TN VAT Act, which warrants affording of personal hearing to the assessee. The 2nd respondent, without even adverting to the said grievance taken up by the petitioner in the grounds of appeal, has erroneously dismissed the appeals. This apart, when the 2nd respondent also has miserably failed to see that Rule 7 (1) and 7(5) of TN VAT Rules prescribed manual filing of returns till 1.11.2014 and it is only with effect from 1.11.2014 the e-filing of returns has been made mandatory, therefore, the 2nd respondent cannot find fault with the petitioner for not making the e-filing of their returns, even prior to the cut-off date viz., 1.11.2014, for these two reasons, he sought for interference with the impugned orders on the ground that the 2nd respondent has miserably failed to give a reasoned finding.

3. Learned Additional Government Pleader (Taxes) taking notice on behalf of the respondents was unable to reply to the aforesaid two contentions made by the petitioner, nor able to support the impugned orders with regard to the non-grant of personal hearing as per Section 27(4) of the TN VAT Act, 2006. This apart, the 2nd respondent also failed to see the grievance of the petitioner that as per Rule 7(1) and 7(5) of the TN VAT Rules, the e-filing of the returns will take effect only from 1.11.2014.

4. This Court, taking into account that there is no specific finding given by the 2nd respondent - appellate authority in the impugned orders with regard to the plea raised by the petitioner that the 1st respondent has violated the mandatory conditions given under Section 27(4) of the Act, without going into the merits of the case, deems fit to remit the matters back to the file of the 1st respondent for fresh consideration. Accordingly, the impugned orders are set aside remitting the matters back to the 1st respondent for fresh consideration. It is made clear that the 1st respondent shall consider the entire issues on merits uninfluenced by the observations made in the impugned orders. The 1st respondent is also directed to issue notice of hearing well in advance to the petitioner.

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

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

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To

1. The Assistant Commissioner (CT),
   Leigh Bazaar Circle,
   Salem,

2. The Appellate Deputy Commissioner (CT),
   Salem.

W.P.No.20755 to 20762 of 2015

PPA (CO)
PSI (07.08.2015)