IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24-02-2015

Coram :

THE HONOURABLE MR. JUSTICE S. VAIDYANATHAN

Writ Petition Nos. 35101 and 35102 of 2014
and
M.P. Nos. 1 and 1 of 2014

M/s.Indian Potash Limited
Rep. by its Authorised Signatory
Mr.V.Logamurthy, Ämbal buildling"".
2nd floor, No.727, Anna Salai
Chennai- 600 006 .. Petitioner in both the Writ Petitions

Versus

The Assistant Commissioner (CT)
Anna Salai III Assessment Circle
Commercial Taxes Buildings, Annexe
4th floor, Greams Road
Chennai - 600 006 .. Respondent in both the Writ Petitions

WP No. 35101 of 2014:- Writ Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the respondent in TIN:33440640098/2008-09 quash the impugned proceedings dated 30.05.2014 and further direct the responden to pass order after giving an adequate opportunity and a personal hearing.

WP No. 35102 of 2014:- Writ Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the respondent in TIN:33440640098/2009-10 quash the impugned proceedings dated 30.05.2014 and further direct the responden to pass order after giving an adequate opportunity and a personal hearing.

For Petitioner : Mr. V.Sundareswaran in both the Writ Petitions

For Respondents : Mr.Manoharan Sundaram Additional Government Pleader (Tax) in both the Writ Petitions

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C O M M O N O R D E R

In both the writ petitions, the petitioner seeks to quash the impugned proceedings dated 30.05.2014 passed by the respondent in respect of the TINs:33440640098/2008-09/2009-10 and to direct the respondent to pass order after giving an adequate opportunity and a personal hearing.

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

3. The conention of the petitioner is that the copy of the proceedings proposal mentioned in the notice dated 30.05.2014 was confirmed on 11.06.2014 without reference to the request of the petitioner to grant seven days time to file objection. The contention of the petitioner is that respondent has neither rejected the request to grant seven days time to file objections nor had granted seven days time to file objection, but proceeded to pass the impugned order which according to the petitioner is gross violation of principle of natural justice. His request for time was also not mentioned in the impugned order but it has been stated that the dealers have not filed any supporting documents for the exemption claimed on High sea sales and that the dealers have to pay tax at 12.5%.

4. The respondent is unable to refute the contention and from glance of the impugned order, it appears that no opportunity was given to the petitioner. Hence, the impugned order is set aside. The petitioner shall treat the contentions in the impugned order as a notice and shall give a reply or objection within period of two weeks from the date of receipt of a copy of the order and shall appear for personal hearing on 23.03.2015. In case the petitioner fails to file any objections and appear in person or whatsoever the reason, the authorities shall proceed to pass orders within a period of two weeks from 23.03.2015.

5. Accordingly, both the writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

The Assistant Commissioner (CT)
Anna Salai III Assessment Circle
Commercial Taxes Buildings, Annexe
4th floor, Greams Road
Chennai - 600 006.

2 cc to Mr.V.Sundareswaran ,Advocate, SR.No.10120
1 cc to Spl.Government Pleader,Sr.No10173

Writ Petition Nos. 35101 and 35102 of 2014
and
M.P. Nos. 1 and 1 of 2014

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