IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2015

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.Nos.21551 and 21552 of 2015
and
M.P.Nos.1 of 2015

Luminous Power Technologies Pvt. Ltd.
Rep by its Senior Officer -
Commercial P.Anand
No.4 2nd Main Road
Saraswathipuram
Nagalkeni
Chennai 44. ...Petitioner in both WPs

Vs

The Assistant Commissioner (CT)
Pallavaram Assessment Circle
Plot No.32 & 33 Sripuram
Thiruneermalai Road
Chromepet Chennai 44 ...Respondent in both WPs

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari to call for the records relating to the Assessment Order in TIN 33860888090/2012-2013 and 2013-14 respectively dt 30.5.2015 passed by the respondent, quash the same as arbitrary and illegal.

For petitioner : Mr.Joseph Prabakar

For respondent : Mr.V.Haribabu, AGP(T)

O R D E R

Heard the learned counsel for the petitioner and Mr.V.Haribabu, learned Additional Government Pleader (Taxes) who took notice for the respondent and with their consent, the main writ petition itself is taken up for disposal.

2. There are two writ petitions filed by Luminous Power Technologies Pvt. Ltd., represented by its Senior Officer-Commercial, P.Kannan, challenging the impugned orders dated 30.05.2015 passed by the Assistant Commissioner (CT), Pallavaram Assessment Circle in TIN Nos.33860888090/2012-2013 and 2013-14 respectively on various grounds.

3. Mr.Joseph Prabakar, learned counsel for the petitioner submits that the impugned orders passed by the respondent ignoring the binding decision of the Appellate Authority on the same issue for the same petitioner for the previous years, are liable to be interfered with. Adding further, he would submit that when the Assessing Officer has levied the penalty under Section 27 of the TNVAT Act, it is mandatory on the part of the respondent to grant personal hearing, but, in the present cases, the respondent has overlooked the mandatory provision. Therefore, on this ground also, the impugned orders are liable to be set aside. That apart, according to him, the impugned orders are not only non speaking orders, but also illegal, since the same are solely based on the inspection report of the Enforcement Wing and without considering the detailed objections filed by the petitioner, the wrong orders are passed.

4. However, Mr.V.Haribabu, learned Additional Government Pleader (Taxes) appearing for the respondent, refuting the above allegations, submitted that the rectification applications filed by the petitioner are pending for consideration and therefore, a direction may be given to the respondent to consider and pass orders on the petitioner's applications filed under Section 84 of the TNVAT Act on merits, within a time frame.

5. Taking into account the pendency of the applications filed under Section 84 of the TNVAT Act, without going into the merits of the matters, this Court directs the Assessing Officer, the respondent herein, to consider the pending applications filed under Section 84 of the TNVAT Act, and pass orders on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order. It is made clear that till orders are passed on the pending applications filed under Section 84 of the

TNVAT ACT, there is no need to take up any coercive steps as against the petitioner.

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

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

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To

The Assistant Commissioner (CT)
Pallavaram Assessment Circle
Plot No.32 & 33 Sripuram Thiruneermalai Road
Chromepet Chennai 44

1 CC to Mr.Joseph Prabakar, Advocate SR.No. 36823

1 CC to the Government Pleader, SR.No. 36490

W.P.Nos.21551 and 21552 of 2015

RJ (CO)
PSI (31.07.2015)