IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.Nos.22460 to 22469 of 2015

Tvl.Nirmal Pumps (Pvt) Ltd.,
represented by its Director G.Nirmala
S.F.No.434, 6th Cross
Vilankurichi Road
Near Thanneer Pandal, Peelamedu
Coimbatore 641 004 ...Petitioner in all the writ petitions

-vs-

1. The Assistant Commissioner (CT)
Peelamedu (North) Circle
Coimbatore

2. The Commercial Tax Officer (CT)
Peelamedu (North) Assmt. Circle
Coimbatore ...Respondents in all the writ petitions

W.P.Nos.22460 to 22464 of 2015 have been filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorari, calling for the records on the files of the second respondent in TIN.33052120969/2007-08, 2008-09, 2009-10, 2010-11 & 2011-12 dated 30.6.2015 and quash the same as being without jurisdiction, authority of law and contrary to the principles of natural justice.

W.P.Nos.22465 to 22469 of 2015 have been filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorari, calling for the records on the files of the second respondent in CST.643367/2007-08, 2008-09, 2009-10, 2010-11 & 2011-12 dated 30.6.2015 and quash the same as being without jurisdiction, authority of law and contrary to the principles of natural justice.

For Petitioner : Mr.R.Senniappan

For Respondents : Mr.S.Kanmani Annamalai
Addl.Government Pleader (Taxes)

ORDER

These ten writ petitions have been filed by M/s Nirmal Pumps (Pvt.) Limited represented by its Director, challenging the impugned orders dated 30.6.2015 passed by the Commercial Tax Officer (CT), Peelamedu (North) Assessment Circle in TIN No.33052120969 and in CST No.643367 pertaining to the assessment years 2007-08, 2008-09, 2009-10, 2010-11 & 2011-12 respectively, on the ground of want of jurisdiction and violation of the principles of natural justice.

2. Learned counsel for the petitioner submitted that when the petitioner was earlier issued with the notices dated 10.4.2015 by the first respondent calling upon the petitioner to produce the purchase invoices for his verification, after production of the same, again the petitioner was asked to produce the purchase invoices by the notices dated 4.6.2015 by the first respondent. Once again the petitioner vide letter dated 18.6.2015 filed on 22.6.2015 sought for extension of time by 20 days, citing a reason that since the excise audit was going on the company, they required that much time. But in the present cases, keeping the petitioner in dark, all of a sudden, the second respondent, within a period of four days from the date of receipt of the letter seeking 20 days time, has rushed to pass the impugned orders, as a result, the petitioner was unable to file the replies with the purchase bills as required by the respondents. That apart, the learned counsel submitted that the impugned orders being cryptic and non-speaking, as the second respondent has not mentioned on what basis he has come to the conclusion to pass the revised orders under Section 27(2) of the TNVAT Act, are liable to be set aside.

3. Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Taxes) for the respondents also fairly submitted that when the petitioner has sought for time by 20 days in their letter dated 18.6.2015 filed on 22.6.2015, in all fairness, the respondents should have given some reasonable time. On the other hand, within four days from the date of receiving the request from the petitioner, the

second respondent has passed the impugned orders. Besides, the learned Additional Government Pleader is also unable to support the impugned orders, as they are totally bereft of any reasons.

4. Even this Court also, after perusing the impugned non-speaking orders running into one and quarter page each, is not able to find either the head or tail of the case of the petitioner as well as the respondents. Even on merit, the impugned orders passed by the second respondent-Commercial Tax Officer cannot be allowed to stand to the test of law, since the first respondent-Assistant Commissioner (CT), who had issued the notices, has to pass the final orders. On the other hand, the second respondent-Commercial Tax Officer has wrongly passed the impugned orders. Therefore, looking at the case from any angle, this Court is not able to support the impugned orders. Accordingly, the impugned orders are set aside and the matters are remitted back to the file of the first respondent for passing speaking orders after granting a reasonable opportunity to the petitioner. Since the issue pertains to five assessment years covering both VAT and CST, the petitioner is granted four weeks time from the date of receipt of a copy of this order to file replies with the requisite purchase bills and thereafter, after fixing a specific date for personal hearing, it is for the first respondent to pass appropriate speaking orders. The writ petitions are allowed. Consequently, M.P.Nos.1 of 2015 are closed. No costs.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Assistant Commissioner (CT)
Peelamedu (North) Circle
Coimbatore

2. The Commercial Tax Officer (CT)
   Peelamedu (North) Assessment Circle
   Coimbatore

1 CC to Mr.R.Senniappan, Advocate SR.No. 37888

1 CC to Spl.Government Pleader, SR.No. 37976

W.P.Nos.22460 to 22469 of 2015

UG (CO)
PSI (29.07.2015)