

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2015

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos.3062 to 3068 of 2015  
& M.P.Nos.1 and 2 of 2015 in each W.P.

M/s.Best & Crompton Engineering

Project Limited,

Rep. by its Dy. Genl. Manager (Taxation)

K.S.Balasubramanian,

No.57, Sterling Road,

Nungambakkam, Chennai-600 034.

.. Petitioner in all the Writ Petitions

Vs.

The Assistant Commissioner (CT),

Nandanam Assessment Circle,

Chennai-600 028.

.. Respondent in all the Writ

Petitions

Writ Petition No.3062 of 2015 filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for the impugned proceedings of the respondent in TIN/33811542043/2007-08, dated 31.12.2014 and quash the same as illegal and violative of the principles of natural justice.

Writ Petition No.3063 of 2015 filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for the impugned proceedings of the respondent in TIN/33811542043/2008-09, dated 31.12.2014 and quash the same as illegal and violative of the principles of natural justice.

Writ Petition No.3064 of 2015 filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for the impugned proceedings of the respondent in TIN/33811542043/2009-10, dated 31.12.2014 and quash the same as illegal and violative of the principles of natural justice.

Writ Petition No.3065 of 2015 filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for the impugned proceedings of the respondent in TIN/33811542043/2010-11, dated 31.12.2014 and quash the same as illegal and violative of the principles of natural justice.

Writ Petition No.3066 of 2015 filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for the impugned proceedings of the respondent in TIN/33811542043/2011-12, dated 31.12.2014 and quash the same as illegal and violative of the principles of natural justice.

Writ Petition No.3067 of 2015 filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for the impugned proceedings of the respondent in TIN/33811542043/2012-13, dated 31.12.2014 and quash the same as illegal and violative of the principles of natural justice.

Writ Petition No.3068 of 2015 filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for the impugned proceedings of the respondent in TIN/33811542043/2013-14, dated 31.12.2014 and quash the same as illegal and violative of the principles of natural justice.

For petitioner : Mr.S.Rajasekar  
For respondent : Mr.Kanmani Annamalai, Addl.G.P.

ORDER

The prayer in these Writ Petitions is for issuance of Writs of Certiorari to call for the impugned proceedings of the respondent in the respective orders, dated 31.12.2014 and quash the same as illegal and violative of the principles of natural justice.

2. Heard the learned counsel for the petitioner and Mr.Kanmani Annamalai, learned Additional Government Pleader, who took notice for the respondent.

3. It is seen that notice dated 28.11.2014 was issued by the assessing officer calling for objections for the assessment years 2007-2008 to 2013-2014. The petitioner-Company, by letter dated 10.12.2014, requested for a month's time stating that the Departmental Head of the petitioner-Company was out of country and he was expected by the first week of January 2015. The authority, while endorsing on the said letter, dated 10.12.2014, noted that the time was extended till 31.12.2014, failing which the order would be passed without further notice. The petitioner submitted that they have preferred a reply on 31.12.2014 and appeared before the authority and the same has been filed in the typed set of papers filed along with the Writ Petitions. When the officials of the petitioner met the office of the assessing officer, the officer was not in the city and he was called over phone, who in turn informed that the objections would be collected on 02.01.2015 and that no orders have been passed at the moment when a reply was given to him on 31.12.2014. The

petitioner states that they went to the office of the assessing officer on 02.01.2015 and the assessing officer stated that orders have already been passed and the impugned orders, dated 31.12.2014 have been served on the petitioner on 06.01.2015. The aforesaid facts could not be disputed by the respondent.

4. Even though an appeal against the impugned order is provided under the provisions of the Tamil Nadu Value Added Tax Act, since there is violation of principles of natural justice, as that the authority should not have passed the impugned order on 31.12.2014 before the expiry of the time granted by him while he granted adjournment till 5.45 p.m. on 31.12.2014 and since the orders had been passed on 31.12.2014 itself, they are set aside on that ground. The matters are remitted back to the original authority to consider the case of the petitioner afresh in all these cases, taking into account the objections filed by the petitioner on 31.12.2014 (as found in pages 23 to 52 of the typed set of papers filed along with these Writ Petitions) and the same had been served on the learned Additional Government Pleader appearing for the respondent. The petitioner-Company shall appear before the authority concerned on 03.03.2015 and they are entitled to make further objections if any and they are also at liberty to file additional documents if required and after hearing the petitioner in person, the authority shall pass orders on merits and in accordance with law.

5. With the above observations and directions, the Writ Petitions are disposed of. No costs. The Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

CS

To

The Assistant Commissioner (CT),  
Nandanam Assessment Circle,  
Chennai-600 028.

7 cc to Mr. R.Hemalatha, Advocate, SR.No.6703

1 cc to Special Government Pleader(Taxes), Sr.No.7121

W.P.Nos.3062 to 3068 of 2015

ppa (co) pmk.19.2.2015