IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 12.2.2015

CORAM

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos.3506 to 3509 of 2015
and
M.P.Nos.1 of 2015 in all WPs

M/s.AVTEC Ltd
Rep. by its General Manager
(Finance)
Punapalli Village
Mathagondapalli Post
Hosur-635 114
Tamil Nadu ...Petitioner in all WPs

vs.

1 The Assistant Commissioner(CT)
(FAC) Hosur (South)
C.T.Building
Bangalore Road
Hosur-635 109.
Tamil Nadu.

2 Commissioner of Commercial
Taxes
Chepauk Chennai.

3 Government of Tamil Nadu
Rep. by its Secretary
Commercial Taxes Department
Fort St. George
Chennai-600 009. ...Respondents in all WPs

Writ Petitions filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus calling for the records relating to the orders passed by the first respondent in TIN 33643363360/ 2010-2011, 33643363360/ 2011-2012, 33643363360/ 2012-2013 and 33643363360/ 2013-2014 respectively dated 28th November

2014, quash the same and consequently direct the first respondent to afford the petitioner an opportunity of personal hearing and decide the matter on merits.

For Petitioner : Mr.Lakshmi Kumaran

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

COMMON ORDER

The petitioner has filed the present writ petitions with the aforesaid prayer.

2. The petitioner would contend that they received a notice on 23.10.2014 and by their letter dated 13.11.2014, they sought for extension of time by thirty days. The said letter was received by the Deputy Commercial Tax Officer, Hosur South, Hosur on 14.11.2014 and on the expiry of the said thirty days, yet another letter dated 12.12.2014 was also given seeking for extension of time by fifteen days. According to the petitioner, without reply to the letter either by rejecting or accepting the same which was received by the authority on 14.11.2014, the the impugned orders have been passed on 28.11.2014 and the same were served on the petitioner on 21.1.2015. which is the subject matter of the writ petitions.

3. Learned counsel for the petitioner would submit that before the order was served, they have submitted their objections by letter dated 12.12.2014 and hence, the order of the authority will have to be set aside.

4. Learned Additional Government Pleader (Taxes) appearing for the respondents would submit that the petitioner has got right of appeal and that the objections had been given by the petitioner only on 26.12.2014 and before that, the impugned orders were passed on 26.11.2014 and the authority has become functus officio and he cannot take up the matter and consider the objections filed by the petitioner subsequent to the date of order.

5. Heard the counsel appearing for either side.

6. It is true that the order has been passed on 28.11.2014 and served on the petitioner in January 2015. When the petitioner has specifically made a request by letter dated 13.11.2014, seeking time to submit their representation, which was received by the authority

on 14.11.2014, the authority has to either reject or restrict further time and thereafter, proceed to pass orders, if no objection was filed by the petitioner within the time that might have been extended by the authority.

7. In this case, as no order either accepting or rejecting or restricting the time was passed as against the request made on 13.11.2014 and that no personal hearing was granted to the petitioner, the order is set aside only on that ground. The contention that reply was not considered cannot be accepted as the order has already been passed by the authority. Since the order has been set aside, while the petitioner is entitled to have an opportunity of personal hearing, they are entitled to file additional objections, if any, apart from the objections they have already filed and the authority shall consider the same alongwith the objections already filed and pass orders afresh in accordance with law within a period of four weeks from the date of personal hearing. The petitioner shall appear for personal hearing on 4.3.2015. If the petitioner fails to avail the opportunity, it is for the authority to pass orders on merits and in accordance with law.

8. All the writ petitions are disposed of accordingly. No costs. The connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

ssk.

To

1 The Assistant Commissioner(CT)
(FAC) Hosur (South)
C.T.Building
Bangalore Road
Hosur-635 109.
Tamil Nadu.

2 Commissioner of Commercial
Taxes
Chepauk Chennai.

3 Government of Tamil Nadu
Rep. by its Secretary
Commercial Taxes Department
Fort St. George
Chennai-600 009.

4 CCs to Mr.Lakshmi Kumaran, Advocate SR.No. 7750

1 CC to the Spl. Government Pleader, SR.No. 7708

W.P.Nos.3506 to 3509 of 2015

MG (CO)
PSI (24.02.2015)