IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos.3731 and 3732 of 2015
And
M.P.Nos.1 and 1 of 2015

M/s.Noble Consolidated Glazings Limited
Represented by its Head of Accounts,
Mr.S.Rengaraj
... Petitioner in both writ petitions

Vs.

The Commercial Tax Officer,
Alwarpet Assessment Circle,
Greenways Road, Chennai - 28.
... Respondent in both writ petitions

Common Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the respondent in TIN 33410821359/2012-13 and 33410821359/2013-14 respectively dated 14.1.2015 and quash the same with the direction to the respondent to consider the objections dated 14.1.2015 and 19.1.2015 respectively.

For Petitioner : Mr.R.Kumar
For Respondent : Mr.Cibi Vishnu
Additional Government Pleader (Taxes)

COMMON ORDER

When the matter is taken up for hearing, both parties agreed that the issue is covered by the decision passed in W.P.No.9265 of 2013 dated 06.11.2014, wherein the operative portion of the order reads as follows:

> "24.This Court is of the view that the above referred to decisions squarely cover the case on hand. The only conclusion that could be arrived is the ITC availed by the petitioner could not have been proposed to be reversed or reversed on the grounds stated by the respondent, i.e., the selling dealer has not filed returns or not paid

taxes or they were unregistered dealers or their registrations were retrospectively cancelled.

25.As noticed above, the exercise of the jurisdiction by the respondent itself is ex-facie arbitrary and the proceedings are not only vitiated by serious procedural infirmities, but are arbitrary and unreasonable and without jurisdiction and held to be illegal. Therefore, the writ petition is allowed and the impugned order, dated 25.02.2013, is hereby set-aside. No costs. Consequently, the connected MPs are closed."

2.That apart, the petitioner was also not given opportunity and objections were not taken into account. Taking note of the submission, the impugned order is set aside and the matter is remanded to the authority to consider objections of the petitioner dated 14.01.2015 and 19.01.2015 respectively and pass fresh orders on merits and in accordance with law after affording an opportunity of personal hearing on 03.03.2015. In case, the petitioner fail to avail this opportunity on 03.03.2015, it is open to the Authority to pass appropriate orders on merits based on the available records.

3.With the above observation, these writ petitions are disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To
1.The Commercial Tax Officer,
Alwarpet Assessment Circle,
Greenways Road, Chennai - 28.

+ 1 cc to Special Government Pleader Sr.8006
+ 1 cc to Mr.R. Kumar, Advocate SR.7800

W.P.Nos.3731 and
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SKV(CO)
Eu 25.02.15