IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2015

CORAM:

THE HON'BLE MR. JUSTICE R. MAHADEVAN

W.P.No.38612 of 2015
and M.P.No.1 of 2015

M/s. Eversendai Constructions
Private Limited
Rep. by K.Saravanan
Director
Plot No.1&2 The Lords Block 1
5th Flr Jawaharlal Nehru Salai
Ekkattuthangal Guindy Chennai-32. [Petitioner]

Vs

The Assistant Commissioner(CT)
Nanganallur Assessment Circle
Chennai-91.
[Respondent]

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondent to pass orders on the petition for rectification / reopening of assessment dated 30.10.15 after grant of personal hearing and opportunity.

For petitioner : Mr.C.Venkataraman
For respondent : Mr.S.Kanmani Annamalai, AGP(T)

O R D E R

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

2. The writ petition is filed for the issuance of a writ of mandamus directing the respondent to pass orders on the petition for rectification / reopening of assessment dated 30.10.15, after grant of personal hearing and opportunity.

3. The petitioners are registered dealers and manufacturers of fabricated structural steel and also undertake works contract and erection work. The petitioners have been assessed under the CST Act for the years 2009-10 to 2012-13. As per the assessment, they are not in arrears of tax for the year 2009-10, however, for the years 2010-11 to 2012-13, the respondent has raised demands. Aggrieved over the same, the petitioner submitted a representation dated 30.10.2015 to the respondent requesting him to reopen the assessment and pass revised orders of demand for all the years for the reasons given in the said petition. Till date no orders has been passed on the same. Hence, the petitioner is before this Court.

4. The learned counsel for the petitioner would submit that it is the specific case of the petitioner that taxes paid by them for the respective assessment years had not been taken into consideration while passing orders as well as raising demands. Hence, pointing out certain errors apparent on the face of the record viz., that the turnover of Rs.1,93,26,324/- does not form part of the taxable turnover as the said turnover represents inter purchase of goods, a rectification petition under Section 84 of the Act came to be filed and the same is pending consideration. Hence, the learned counsel seeks indulgence of this Court for a direction to consider petition filed under Section 84 of the Act and pass appropriate orders on merits, for which, the learned Additional Government Pleader submitted that the said petition will be considered on merits within the time limit fixed by this Court.

5. In view of the above, the respondent is directed to pass appropriate orders on the petition filed under Section 84 of the Act, after affording due opportunity to the petitioner. Such exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order.

With the above directions, the writ petition is disposed of. No costs. Connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

The Assistant Commissioner(CT)
Nanganallur Assessment Circle
Chennai-91.

+1 cc to Mr.C.Venkataraman, Advocate vide sr.66130
+1 cc to Special Government Pleader(Taxes) sr.65851

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