IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2015

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos.3987 & 3988 of 2015
&
M.P.Nos.1 & 1 of 2015

M/s.Raj Petro Specialties Pvt. Limited,
rep. by its Director,# 12, Kailasam Road,
Tondiarpet-600 081,
Corporate Office at 2AD Doshi Towers,
No.156, Poonamallee High Road,
Chennai-600 010. .. Petitioner in both WPs

Vs

The Assistant Commissioner (CT),
Tondiarpet Assessment Circle,
Nos.19 & 20, Kumbalammankoil Street,
Tondiarpet,
Chennai-600 081. .. Respondent in both WPs

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the case from the file of the respondent herein, quash the impugned order of the respondent in CST 9899/2012-13, 2013-14 dated 03.02.2015 (served on 06.02.2015), direct the respondent to grant further time to produce the remaining C Forms for the turnover of Rs.6,12,56,586.66 (W.P.No.3987 of 2015) and Rs.20,37,40,048/- (W.P.No.3988 of 2015) respectively, pass a revised order of assessment with an opportunity of personal hearing to the petitioner.

For Petitioner in both WPs : M/s.Lakshmi Sriram

For Respondent in both WPs : Mr.ANR.Jayapratap
Addl. Govt. Pleader (Tax)

COMMON ORDER

The petitioner has come forward with these writ petitions, challenging the respective orders passed by the respondent dated 03.02.2015.

2. Learned counsel for the petitioner contended that though there is a remedy of appeal against the impugned order passed by the Assistant Commissioner (Commercial Tax) is available, however since the respondent has violated the principles of natural justice as no opportunity was given to the petitioner before passing the order, the present writ petitions are maintainable.

3. As per the revised notice dated 05.01.2015, the petitioner has to get C Forms from the Government and other organizations and in this regard, the petitioner has sought for time. Learned counsel for the petitioner stated that the petitioner has given a reply on 21.05.2015 to the notice dated 05.01.2015, for the assessment year 2012-13 and a reply dated 22.01.2014 for the assessment year 2013-14. Followed with all reminders, on 29.1.2015, the petitioner submitted C Forms for the Assessment Years 2012-13 and 2013-14 respectively.

4. Learned counsel for the petitioner contended that the since personal hearing was not granted, the revised notice dated 05.01.2015 was issued by the respondent and the same was served on the petitioner only on 07.01.2015 for the Assessment Year 2012-13 and for the Assessment Year 2013-14 on 08.01.2015. Hence, the question of personal hearing said to have been granted on 05.01.2015 is incorrect.

5. The respondent was unable to refute the contentions raised by the petitioner. Admittedly, in the impugned order, it has been stated that the personal hearing was given on 05.01.2015 whereas, it is not in dispute that the notices dated 05.01.2015 have been served on 07.1.2015 and 08.01.2015, for the assessment years 2012-13 and 2013-14 respectively. Hence, on this sole ground, I am inclined to set aside the orders impugned in these writ petitions and remit the matters to the Authority concerned for consideration on merits.

6. Learned counsel for the petitioner now requested that a reasonable time not less than twelve weeks from the date of receipt of copy of this order may be granted in order to enable him to produce all the documents and he undertakes that he would not seek any further time thereafter.

7. Considering the submissions made by the learned counsel for the petitioner, the petitioner is directed to appear before the Authority concerned on 18.05.2015 for personal hearing and file objections and produce all the documents available with him. For whatever reason, if the petitioner is unable to appear on the date fixed (i.e. 18.5.2015), it is open to the respondent to pass appropriate orders on merits and in accordance with law on available records. Accordingly, the matters are remitted back to the respondent to consider and pass orders afresh after affording a personal hearing as fixed by this Court on 18.5.2015, within a period of four weeks thereafter.

8. With the above directions, these writ petitions are disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

The Assistant Commissioner (CT),
Tondiarpet Assessment Circle,
Nos.19 & 20, Kumbalammankoil Street,
Tondiarpet,
Chennai-600 081.

+ 2 ccs to M/s. Lakhsmi Sriram, Advocate Sr.8305
+ 1 cc to special Government Pleader Sr.8749

W.P.Nos.3987 & 3988 of 2015
And
M.P.Nos.1 & 1 of 2015

SV(CO)
Eu 16.03.15