IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2015

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.NOS.4195 AND 4196 OF 2015

AND M.P.NOS.1 AND 2 OF 2015

VNR Infrastructure Limited,
represented by P.Anil Kumar Reddy,
Accountant, Shop No.91/78,
Srinivasa Chettiar Complex,
Gummidipoondi,
now at Plot No.5, Old No.4,
Stone Flower Annexure Building,
Padmanabha Street, Kodambakkam,
Chennai - 600 024. .... Petitioner in both W.Ps

Vs.

The Assistant Commissioner (CT)
Gummidipoondi Assessment Circle,
No.38, GNT Road,
II Floor, Sri Ganapathy Theatre Complex,
Gummidipoondi, Chennai - 601201. .... Respondent in both W.Ps

Prayer: Writ Petition in W.P.No.4195 of 2015 is filed under Article 226 of the Constitution of India seeking for the relief of issuance of a writ of Certiorari to call for the records of the respondent in Assessment Order TIN/33831703246/2010-11 dated 30.12.2014 and quash the same.

Writ Petition in W.P.No.4196 of 2015 is filed under Article 226 of the Constitution of India seeking for the relief of issuance of a writ of Certiorari to call for the records of the respondent in Assessment Order TIN/33831703246/2011-12 dated 31.12.2014 and quash the same.

For Petitioner in both W.Ps : Mr.Joseph Prabakar for Mr.P.Kannan Kumar

For Respondent in both W.Ps : Mr.Kanmani Annamalai, Addl.Govt.Pleader (Taxes)

COMMON ORDER

According to the petitioner, he is a dealer in works contract in Tamil Nadu and is trading in iron and steel. Enforcement Wing Officials conducted surprise inspection on 4.2.2013. Based on the surprise inspection, notice has been issued to the petitioner with regard to reversal of input tax credit. According to the petitioner, the respondent has reckoned the entire amount of purchase of iron and steel from M/s.Rahul Raj Trading Company and passed orders on 5.5.2014 reversing the corresponding input tax credit of Rs.1,55,33,235/- for the year 2010-2011 and Rs.4,47,64,261/- for the year 2011-12. The petitioner has challenged the assessment orders made on 5.5.2014 in W.P.Nos.14100 and 15154 of 2014 respectively and this Court by order dated 29.5.2014 directed the respondent to provide a personal hearing to the petitioner and pass orders on merits and in accordance with law. Pursuant to the orders of this Court, detailed orders have been passed by the respondent on 30.12.2014 and 31.12.2014, which are said to have been received by the petitioner on 17.1.2015.

2. According to the petitioner, the eligibility to avail input tax credit is governed by Section 19 of the Tamil Nadu Value Added Tax Act, 2006 and the procedure laid down under Rule 10 of the Tamil Nadu VAT Rules, 2007. He submitted that he complied with Section 19 (10)(a) of the TN VAT Act read with Rule 10(2) of the TN VAT Rules. The petitioner has questioned the assessment orders for the year 2010-11 dated 30.12.2014 in W.P.No.4195 of 2015 and for the year 2011-12 dated 31.12.2014 in W.P.No.4196 of 2015.

3. The respondent - assessing Officer on remand has considered the request of the petitioner and passed detailed orders of assessment, wherein, he has mentioned about the personal hearing given to the petitioner on various dates, the relevant portion of one of the assessment order for the year 2010-11 is extracted hereunder:

> ''m) In the time spirit of the orders of the Hon'ble High Court the dealers have been intimated of the date of personal hearing. But they continuously used for sought for adjournment as detailed below:-

''Office and reference No. and Date	Date of Personal hearing fixed	Date of Letter of the dealer	Reasons put forth for adjournment
TIN/33831703246 dt.10-6-14	25-6-2014	25-06-2014	Accounts manager not well personal hearing required to fix on 27-7-2014

25-07-2014	Accounts manager not well. Requested to reschedule the hearing on 31.08.2014.
13-10-2014	Accounts manager not well. Additional time requested till 11.11.2014
26-11-2014	The Accounts manager is not in a position to attend office. Requested to grant them in a personal hearing.''

9. The petitioner, without raising all the points together before the assessing officer, started taking one point or the other and approaching this Court and is trying to frustrate the finality in the matter. If the petitioner is aggrieved by the orders impugned, it is open to him to question the same in accordance with the provisions of the Tamil Nadu Value Added Tax Act without resorting to the filing of writ petitions under Article 226 of the Constitution of India. Hence, I have no other option except to dismiss the writ petitions. Accordingly, the writ petitions are dismissed. No costs. However, this Court makes it clear that till the time to file appeal against the orders impugned is over, no coercive action shall be taken against the petitioner. Consequently, the connected miscellaneous petitions are also dismissed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

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To

The Assistant Commissioner (CT)
Gummidipoondi Assessment Circle,
No.38, GNT Road,
II Floor, Sri Ganapathy Theatre Complex,
Gummidipoondi, Chennai - 601201.

1 ccc to Spl.Government Pleader (Taxes), Sr. 9092
2 ccs to Mr.S.P. Kannankumar, Advocate, sr. 9352, 9353

W.P.NOS.4195 AND 4196 OF 2015

JSV (CO)
kk 20/2