IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 25.02.2015

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THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos.4860 to 4862 of 2015
and
M.P.Nos.1 to 1 of 2015

Shell India Market Pvt. Ltd.,
Perungudi, Chennai
rep. by its Director Padma Char .. Petitioner in all cases

Vs.

The Deputy Commissioner (CT) IV,
Large Taxpayers Unit, V Floor,
Dugar Towers,
No.34, Marshalls Road,
Chennai-600 008. .. Respondent in all cases

Prayer in all cases:- Writ Petitions filed under Article 226 of the Constitution of India to issue a Writ of certiorarified mandamus calling for the records on the files of the respondent herein in his TIN 33230461394/2009-10, 2010-11 & 2011-12 respectively dated 08.01.2015, 23.01.2015 & 28.01.2015 respectively and to quash the same with the direction to re-do the assessment in accordance with the provisions of the Act by providing an opportunity.

For Petitioner in all cases : Mr.N.Inbarajan

For Respondent in all cases : Mr.Kanmani Annamalai, AGP (T)

C O M M O N O R D E R

The Writ Petitioner has come forward with the writ petitions contending that there was no proposal to levy tax. By notices dated 01.10.2013 and 17.03.2014, petitioner was asked to produce the records under various heads that are mentioned in the notices. The petitioner has given detailed objections on 05.05.2014 apart from furnishing the details of sales for the respective years in question.

2.When there is no proposal to levy tax and that they have been asked to produce only the documents, without considering the documents filed by them and without giving an opportunity, the impugned orders have been passed by the authorities. The petitioner further submitted that on their giving objection, appeared and requested the authorities for extension of two months time. But, extension of time was rejected by the authority concerned. Further it is submitted that for the years 2010-11 and 2011-12, no proposal and details were called for.

3.The facts advanced by the petitioner would not be refuted by the respondent. Notice is also very clear that only details have been called for in the last paragraphs. It is stated in the notice that they have proposed to revise details.

4.On the aforesaid circumstances, this Court is of the view that the impugned order shall be treated as notice of proposal to levy tax for which the petitioner accepted to give the detailed explanation and shall appear before the authority and produce the records. If the petitioner fails to avail the opportunity, the respondent is at liberty to pass appropriate orders on merits and in accordance with law. Accordingly, the impugned orders are set aside and the writ petitions are allowed. No costs. Consequently, connected M.Ps are closed.

Sd/-
Deputy Registrar (Judicial)

/true copy/

Sub Asst. Registrar

vga

To

The Deputy Commissioner (CT) IV,
Large Taxpayers Unit, V Floor,
Dugar Towers,
No.34, Marshalls Road,
Chennai-600 008.

1 cc to Mr.N.Inbarajan, Advocate, Sr. 10303
1 cc to Spl.Government Pleader (Taxes),. Sr. 10409

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GR (CO)
kk 10/3