IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.03.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos.5564, 5565, 5566, 5567,
5568, 5569 and 5570 of 2015
and
M.P.No.1 of 2015 (in all petitions)

Lifestyle International Private Limited,
represented by its Regional Commercial Manager,
No.81, T.T.K.Road, Alwarpet,
Chennai - 600 018. ... Petitioner in all W.Ps.

vs.

1. The Assistant Commissioner (CT) (FAC)
   Mylapore Assessment Circle,
   No.46, Greenways Road,
   Chennai - 600 028.

2. Commissioner of Commercial Taxes,
   Chepauk,
   Chennai - 600 005.

3. Government of Tamil Nadu,
   represented by its Secretary,
   Commercial Taxes Department,
   Fort St.George,
   Chennai - 600 009. ... Respondents in all W.Ps.

Writ Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records relating to the impugned order passed by the first respondent in TIN: 33930701472/2007-08, 33930701472/2008-09, 33930701472/2009-10, 33930701472/2010-11, 33930701472/2011-12, 33930701472/2012-13 and 33930701472/2013-14 respectively dated 31.12.2014, quash the same and consequently, direct the first respondent to afford the petitioner an opportunity of personal hearing, decide the matter on merits after taking into consideration the submissions of the petitioner.

For Petitioner in all W.Ps : M/s.V.Lakshmi Kumaran

For Respondents in all W.Ps : Mr.Manoharan Sundaram, Additional Government Pleader (T)

O R D E R

The petitioner has come forward with these writ petitions challenging the order of the first respondent dated 31.12.2014.

2. Heard learned counsel for the petitioner and learned Additional Government Pleader (Taxes) for respondents.

3. The learned counsel for the petitioner submitted that pursuant to the notice issued by the first respondent dated 21.04.2014, replies were submitted by the petitioner on 28.05.2014 and 19.06.2014 refuting the arbitrary proposals of the first respondent. That apart, the petitioner has also requested the first respondent to afford an opportunity of being heard personally vide letters dated 14.05.2014, 28.05.2014 and 19.06.2014. However, the first respondent, without affording an opportunity of personal hearing, passed a detailed order dated 31.12.2014, confirming the demand of tax and penalty. The details of demand of tax and penalty are as follows:

W.P.No.	TIN No.	Demand of Tax (in Rs.)	Penalty (in Rs.)
5564 of 2015	33930701472/2007-08	36,12,778/-	54,19,167/-
5565 of 2015	33930701472/2008-09	54,44,428/-	55,58,033/-
5566 of 2015	33930701472/2009-10	41,19,540/-	47,33,537/-
5567 of 2015	33930701472/2010-11	64,08,823/-	76,36,402/-
5568 of 2015	33930701472/2011-12	1,05,10,058/-	1,35,33,082/-
5569 of 2015	33930701472/2012-13	1,11,11,212/-	1,45,07,592/-
5570 of 2015	33930701472/2013-14	23,44,237/-	10,81,833/-

4. The learned counsel for the petitioner further submitted that the petitioner has also agreed to pay 10% of the tax amount (in each case) as determined in the impugned orders and if three weeks' time is given, the petitioner would cooperate to enable the assessing officer to complete the proceedings afresh.

5. The Tamil Nadu Value Added Tax, 2006 (hereinafter referred to as 2006 Act) enables the petitioner to prefer an appeal within 30 days from the date of receipt of the order of the Assessing Officer. The impugned order is dated 31.12.2014. Even though the learned Additional Government Pleader (Taxes) has stated that the writ petitions have been filed after the period of limitation prescribed under 2006 Act, the appellate authority is empowered to condone the delay of 30 days after the expiry of the original 30 days and it is for the appellate authority to decide on merits to condone the delay beyond the original period of 30 days and thereafter hear the appeal.

6. Taking note of the facts and circumstances of the case, which being an exceptional one, I direct first respondent to accept 10% of the amount (in each case) as determined in the impugned orders, which the petitioner has agreed to pay the same, which can be adjusted from the refund and and give one more opportunity to the petitioner to put forth its objections and thereafter to pass appropriate orders on merits and in accordance with law.

7. The petitioner is directed to appear on 26.03.2015 before the authority, on which date, the petitioner is entitled to make its verbal and written submissions, if any. In case the petitioner fails to avail this opportunity on 26.03.2015, the authority is empowered to pass orders afresh on merits and in accordance with law based on the available records. In case, an adverse order is passed on the failure of the petitioner to avail the opportunity, the petitioner undertakes that it will approach the appellate authority challenging that order by complying with pre-deposit and shall not seek the indulgence of this Court on this score. The said submission of the learned counsel for the petitioner is recorded.

These writ petitions are disposed of with the above direction. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gm

To

1. The Assistant Commissioner (CT) (FAC)
   Mylapore Assessment Circle,
   No.46, Greenways Road,
   Chennai - 600 028.

2. The Commissioner of Commercial Taxes,
   Chepauk,
   Chennai - 600 005.

3. The Secretary,
   Government of Tamil Nadu,
   Commercial Taxes Department,
   Fort St.George,
   Chennai - 600 009.

+7cc's to M/s.Lakshmi Kumaran, Advocate, S.R.No.11698
+1cc to the Special Government Pleader, S.R.No.11975

W.P.No.5564, 5565, 5566, 5567,
5568, 5569 and 5570 of 2015

GR(CO)
CA(17/03/2015)