IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.03.2015

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THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos.6210 to 6213 of 2015
and
M.P.Nos.1 of 2015

M/s.Tejas Innovative Solutions Private Limited ... Petitioner in all W.Ps
Rep. by its Director Madanlal Jain
No.2 Nathan Street
Off Harrington Road,
Chetpet, Chennai-32.

Vs

The Assistant Commissioner(CT)
Valluvarkottam Assessment Circle
No.10, Palaniyappa Maligai
Greenways Road
Chennai-28. ... Respondent in all W.Ps

Writ Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified mandamus to call for the records of the Respondent in TIN No.33471503527/2010-11, 2012-13, 2013-14, and 2011-12 respectively dated 23.01.2015 and quash the same and further direct the Respondent to consider the replies dated 25.11.2013 filed along with all the relevant documents and provide an opportunity of personal hearing.

For Petitioner : Ms.C.Rekha Kumari
For Respondent : Mr.Cibi Vishnu, AGP (T)

COMMON ORDER

Heard the learned counsel for the petitioner and the learned Additional Government Pleader (Taxes) for the respondent, who accepts notice on behalf of the respondent and with their consent, the main writ petitions themselves are taken up for hearing.

2. The Petitioner has come forward with these writ petitions challenging the orders of the respondent passed in TIN No.33471503527/2010-11, 2012-13, 2013-14, and 2011-12 respectively dated 23.01.2015 and to direct the respondent to consider the

replies dated 25.11.2013 filed along with all the relevant documents and provide an opportunity of personal hearing.

3. According to the learned counsel for the petitioner, the petitioner has received notices dated 21.08.2013 for the assessment years in question, for which detailed replies were submitted on 25.11.2013 and the same were acknowledged by the respondent on 07.03.2014. It is the further case of the petitioner that the petitioner appeared in person on 11.04.2014 and produced all documents and made verbal statements, which were recorded by the authority, however, ignoring the proceedings, another set of notices dated 14.11.2014 were issued to the petitioner, to show cause as to why input tax credit should not be disallowed, without reference to the earlier notices issued and proceedings conducted by the assessing officer. The petitioner, on 15.12.2014, without stating that he had already received notices for the same period and submitted his objections and appeared in person, simply requested three weeks' time to submit his reply. The same was acknowledged and time was granted till 25.12.2014 by the respondent on 15.12.2014. Since no replies were filed by the petitioner, the authority proceeded to pass impugned orders dated 23.01.2015, which were received by the petitioner during the last week of January 2015. Aggrieved against the said orders, the petitioner is before this Court.

4. Admittedly, the petitioner has got a right of appeal. However, it is to be noted that there is a delay on the part of the petitioner in not informing the authority about the earlier proceedings in his replies. Similarly, the respondent is also at fault in not referring the earlier proceedings in the impugned orders. Admittedly, personal hearing was not given to the petitioner before issuing the notices dated 23.01.2015. Hence, this Court is of the view that on these two grounds, the impugned orders are liable to be set aside.

5. That apart, since the petitioner has got a right of appeal, and when this Court has directed the learned counsel for the petitioner to avail alternative remedy by approaching the appellate forum, the learned counsel for the petitioner has agreed to deposit 10% of the tax amount for each of the assessment years in question within the time stipulated by this Court.

6. In view of the above submission made by the learned counsel for the petitioner, the impugned orders dated 23.01.2015 are set aside and the matters are remitted back to the original authority to pass orders afresh on merits and in accordance with law, after affording an opportunity of personal hearing to the petitioner.

7 . It is made clear that the petitioner is directed to treat the impugned orders as notices and appear before the respondent on 06.04.2015, on which date, the respondent is directed to give personal hearing to the petitioner. It is further made clear that the explanations/objections for the same shall be given by the petitioner on or before 06.04.2015, viz,,the date of personal hearing. The petitioner is further directed to deposit 10% of the tax amount as agreed for each of the assessment years before the date of personal hearing viz., 06.04.2015. After affording an opportunity of being heard in person to the petitioner on 06.04.2015 and taking note of his objections if any to be filed by him, appropriate orders on merits and in accordance with law shall be passed by the respondent. If the petitioner fails to comply with any one of the conditions viz., availing of opportunity of personal hearing on 06.04.2015 and depositing 10% of the tax amount for each of the assessment years before 06.04.2015, the respondent is directed to pass appropriate orders on merits and in accordance with law based on the available records.

Accordingly, the Writ Petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

RG

To

The Assistant Commissioner(CT)
Valluvarkottam Assessment Circle
No.10 Palaniyappa Maligai Greenways Road
Chennai- 28.

+1cc to M/s.C.Rekha Kumari, Advocate, S.R.No.12773
+1cc to the Special Government Pleader(T), S.R.No.13059

W.P.Nos.6210 to 6213 of 2015

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