IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:11.03.2015

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The Honourable MR. JUSTICE M.DURAISWAMY

W.P.Nos.6800 to 6806 of 2015
and M.P.Nos.1 of 2015

M/s. Zebro Officemate Private Limited ... Petitioner in all Wps.
Windsor Palace No.33 Balfour Road
Kilpauk Chennai-10
Rep. by its Director.

Vs

The Assistant Commissioner
Commercial Taxes
Ayanavaram Assessment Circle
Seventh Floor Dowlath Towers
Taylors Road Kilpauk Chennai-10.
... Respondent in all Wps.

Writ Petitions filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorari to call for the records of the respondent orders dated 30.01.2015 made in TIN. 33711002681/2007-2008 to 2010-2011, and in CST 872910/2007-2008 to 2009-2010 respecttively and to quash the same.

For Petitioner : Mr.S.R.Rajagopal

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

C O M M O N O R D E R

Mr.Kanmani Annamalai, learned Additional Government Pleader(T) takes notice for the respondent.

2. By consent of both the counsels, the writ petitions are taken up for final hearing at the admission stage.

3. The petitioner has filed the above writ petitions to issue a writ of certiorari to call for the records of the orders of the respondent dated 30.01.2015 and to quash the same.

4. It is the case of the petitioner that the Deputy Commercial Tax Officer had visited the office of the petitioner for conducting surprise inspection under Section 65 of the Tamil Nadu Value Added Tax, 2006 (hereinafter referred to as "the Act"). On

27.06.2013, the surprise inspection conducted by the Deputy Commissioner was completed, wherein the contentions and explanations given by the petitioner were not mentioned in the said statement and the petitioner's representatives were forced to sign the said statement. That apart, the Director of the petitioner Company was forced to pay the compounding fee of Rs.2,000/-. On 18.07.2013, Circular No.8/2013 was issued by the Commissioner of Commercial Taxes. On 27.06.2014, 07.07.2014, 09.07.2014 and 14.07.2014 the respondent issued notices proposing to do re-assessment, demanding tax amount and penalty thereon. The said notices were issued based on the sworn statement and surprise inspection report of the enforcement department dated 27.06.2013. On 21.07.2014 and 08.08.2014, the petitioner filed objections to the notices and requested the respondent for personal hearing. On 30.01.2015, the respondent without considering the objections filed by the petitioner and without affording an opportunity of personal hearing to the petitioner, passed the impugned orders, revising the assessment, demanding tax and penalty. Challenging the said impugned orders, the petitioner has filed the above writ petitions.

5. The learned counsel for the petitioner submitted that in similar circumstances this Court in W.P.No.19326 of 2014 dated 22.07.2014 in the case of M/s Pancy Ceramics rep.by its Proprietor Mr.S.Manivannan vs. The Commercial Tax Officedr, Arni Assessment Circle, Arni, set aside the impugned orders and remanded the matter to the respondent for fresh adjudication in accordance with law.

6. The learned Additional Government Pleader appearing for the respondent also fairly submitted that the issue involved in the present writ petitions is covered by the order passed in W.P.No.19326 of 2014.

7. In the case on hand, the respondent has not afforded an opportunity of personal hearing as contemplated under Section 22(4) of the Act before passing the impugned orders.

8. In these circumstances, following the order passed in W.p.No.19326 of 2014 dated 22.07.2014, the impugned orders are set aside and the matters are remanded to the respondent for fresh adjudication. The respondent is directed to afford an opportunity of personal hearing to the petitioner and decide the matters on merits and in accordance with law.

9. The learned counsel for the petitioner submitted that the representative of the petitioner would appear for personal hearing on 15.04.2015. After affording personal hearing to the representative of the petitioner on 15.04.2015, the respondent is directed to decide the matters afresh in accordance with law, within a period of two weeks thereafter.

With the above observations, the writ petitions are disposed of. No costs. Connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

The Assistant Commissioner
Commercial Taxes
Ayanavaram Assessment Circle
Seventh Floor Dowlath Towers
Taylors Road Kilpauk Chennai-10

+7cc's to Mr.S.R.Rajagopal, Advocate, S.R.No.13685 to 13690/15 and 13693/15

+1cc to the Government Pleader, S.R.No.13880

W.P.Nos.6800 to 6806 of 2015

AK(CO)
CA(13/03/2015)