IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2015

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THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos.8730 to 8737 of 2015
And
M.P.Nos.1 of 2015

M/s.Millions Fashions ... Petitioner in all the Petitions
rep. by its Proprietor
New No.79 Old No.41
Coral Merchant Street
Chennai-600 001

Vs

The Assistant Commissioner of Income Tax
Muthialpet Assessment Circle
Thambu Chetty Street Chennai-1
... Respondentin all the Petitions

Petitions filed under Article 226 of the Constitution of India to issue a Writ of certiorari to call for the records of the respondent in the impugned order in TIN No.3378122087/2006-2007 to 2013-2014 respectively dated 27.2.2015 quash the same as violative of Section 22 and Section 27 of the TNVAT Act 2006 and violative of the principles of natural justice

For Petitioner in all the Petitions : Ms.Radhika Chandra Sekhar

For Respondent in all the Petitions : Mr.V.Haribabu, AGP(T)

COMMON ORDER

Heard the learned counsel for the petitioner and the learned Government Advocate (Taxes), who took notice for the respondent.

2. These writ petitions have been filed challenging the orders of the respondent dated 27.02.2015.

3. It is the grievance of the petitioner Company that neither an opportunity was given to file its objections nor an opportunity of being personally heard was given to them before passing the impugned orders. The learned counsel for the petitioner submitted that in the notices dated 23.01.2015 proposing to impose tax on imported cotton fabric, the authority has made it clear that objections if any by the petitioner may be filed within 15 days from the date of receipt of such notices and that they are entitled to avail personal hearing in this connection, if they desire, within the time stipulated supra. According to the learned counsel for the petitioner, pursuant to the same, the petitioner has sought four weeks' time vide letters dated 10.02.2015, which were received by the respondent on the same day. However, the respondent, without passing orders on the request of the petitioners vide letters dated 10.02.2015, passed the impugned orders on 27.02.2015.

4. The notices dated 23.01.2015 cannot be said to be incorrect since proper wordings have been used in the last paragraph of the said notices, wherein the petitioner has been asked to submit its objections and also to avail personal hearing within 15 days from the date of receipt of such notices and hence, the petitioner cannot say that an opportunity of being heard was not given. But, according to the petitioner, the notices dated 23.01.2015 were received by the petitioner on 27.01.2015 and the petitioner has sought for time for four weeks on 10.02.2015, within 15 days as mentioned in the original notices. When that being the case, without accepting or rejecting the request of the petitioner, the authority has proceeded to pass orders within the time sought for by the petitioner expires viz., within four weeks from the date of receipt of the notices. Hence, I am of the considered view that the writ petitions have to be allowed on the ground that the authority has passed the impugned orders without passing an order on the requests of the petitioner dated 10.02.2015, which were made within 15 days from the date of receipt of the original notices dated 23.01.2015.

5. In view of the above, the writ petitions are allowed and the impugned orders dated 27.02.2015 are set aside. The matters are remitted back to the authority to consider the case of the petitioner afresh on merits and in accordance with law. The petitioner shall file its objections if any on or before 30.04.2015 and a representative of the petitioner Company shall appear before the authority on 04.05.2015 and on such appearance, the respondent is directed to consider the the case of the petitioner and after giving the petitioner an opportunity of being heard on 04.05.2015, the respondent shall pass appropriate orders on merits and in accordance with law within a period of four weeks thereafter. If

the petitioner fails to avail the opportunity mentioned supra, for any reason whatsoever, the authority is empowered to pass orders on merits and in accordance with law, without being influenced by the orders that are set aside by this Court.

The writ petitions are disposed of with the above direction. No costs. Connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

The Assistant Commissioner of Income Tax
Muthialpet Assessment Circle
Thambu Chetty Street Chennai-1

+8cc's to Mr.K.Vaitheeswaran, Advocate, S.R.No.17152
+1cc to the Special Government Pleader, S.R.No.17313

W.P.Nos.8730 to 8737 of 2015

KSJ(CO)
CA(07/04/2015)