IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.03.2015

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THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos.9274 and 9275 of 2015
And
M.P.Nos.1 & 2 of 2015

Tvl.Metro Corporation ... Petitioner
Rep. by its Proprietrix
No.9 Kamala Nehru Nagar
Choolaimedu Chennai-94.

Vs

The Assistant Commissioner(CT)
Vadapalani Assessment Circle
No.1 Greams Road
Chennai-6. ... Respondent

Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified mandamus to call for the records on the file of the respondent in CST 820551/ 2010-2011 and 2011-2012 respectively dated 7.7.2014 and quash the same as being contrary to the principles of natural justice without jurisdiction and authority of law further direct the respondent to dispose off the Sec.84 Applications dated 14.3.2015 after accepting the Declaration Forms and to pass fresh orders after consideration of the same in accordance with law.

For Petitioner : Mr.A.Ravichandran
For Respondent : Mr.Manoharan Sundaram, AGP(T)

C O M M O N O R D E R

The petitioner has come forward with these writ petitions challenging the orders of the respondent dated 07.07.2014 and for a direction to the respondent to consider the applications dated 14.3.2015 filed under Section 84 of the Tamil Nadu Value Added Tax, 2006 (hereinafter referred to as "the 2006 Act", after accepting the Declaration Forms and to pass fresh orders after consideration of the same in accordance with law.

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

3. It is the grievance of the petitioner that no notice was issued to the petitioner before passing the impugned orders.

4. The learned counsel for the petitioner submitted that no opportunity of being heard was given to the petitioner before passing the impugned orders. According to him though notice dated 17.02.2014 was issued, which was received by an employee, since the same was not delivered to the proprietress, the petitioner had lost the chance of mandatory requirement of personal opportunity of being heard before the respondent to produce the entire declarations and proof of evidence with regard to the claim of exemption. Further, according to him, the applications filed under Section 84 of the 2006 Act are pending and no order has been passed on the same. Hence, the petitioner is before this Court.

5. The learned Additional Government Pleader (Taxes) on the other hand submitted that notice dated 17.02.2014 was issued to the petitioner by RPAD and the same was also received by the petitioner firm. Hence, the contention of the learned counsel for the petitioner cannot be accepted. However, he would submit that a direction may be given to the respondent to dispose of the pending applications filed under Section 84 of the 2006 Act.

6. The learned counsel for the petitioner further submitted that the petitioner has agreed to pay 10% of the tax amount as determined by the respondent for each of the assessment years, without prejudice to her rights.

7. Admittedly, rectification petitions dated 14.03.2015 filed under Section 84 of the 2006 Act are pending with the authority concerned and no orders have been passed on the same. Hence, this Court is of the view that the respondent has to give an opportunity of being heard to the petitioner before passing orders on the rectification petitions filed under Section 84 of the 2006 Act.

8. In view of the same, the respondent is directed to accept 10% of the tax amount as determined in the impugned orders for each of the assessment years, which the petitioner has agreed to pay the same on or before 20.04.2015. On receipt of the said amount, the respondent is directed to give an opportunity of personal hearing to the petitioner as provided under Section 22(4) of the Act and decide the matter afresh on merits and in accordance with law.

9. The learned counsel for the petitioner also agreed that the petitioner would appear before the respondent on 20.04.2015 for personal hearing. Hence, on 20.04.2015, the petitioner is directed to make her submissions both oral and written and also produce all the documents, if any, in support of her case and on such appearance and on receipt of the documents, if any, filed by the petitioner, after considering the same and after affording an opportunity of personal hearing to the petitioner, the authority shall pass orders on the rectification petitions filed by the petitioner under Section 84 of the 2006 Act, on merits and in accordance with law, within a period of two months from the date of receipt of a copy of this order.

10. In case the petitioner fails to avail the opportunity for any reason whatsoever, on 20.04.2015, it is open to the respondent to pass appropriate orders on merits and in accordance with law on the rectification petitions filed by the petitioner with the available records.

6. It is made clear that on payment of 10% of the tax amount as determined by the respondent for each of the assessment years, the respondent is directed to lift the attachment.

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

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To

The Assistant Commissioner(CT)
Vadapalani Assessment Circle
No.1 Greams Road
Chennai-6.

+1cc to Mr.A.R.Ravichandran, Advocate, S.R.No.18099
+1cc to the special Government Pleader(Taxes), S.R.No.18226

W.P.Nos.9274 and 9275 of 2015

VSN(CO)
CA(08/04/2015)