IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2015

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THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos.9535, 9569 to 9572 of 2015
And
M.P.Nos.1 of 2015

Tvl. Ramalingam Engineering Works
[Petitioner in all the WPs]
Rep. by its Proprietor V.Ramalingam
No.271 (Old No.21) G.S.T. Road Tambaram
Chennai-45.

Vs

The Assistant Commissioner(CT)
Tambaram Assessment Circle
19-A Shivashanmugam Salai
West Tambaram Chennai- 45. [Respondent in all the WPs]

Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records on the files of the respondent proceedings in Rc. 2010/2014/ A4/2006-07, TIN/33320886059/2009-10, TIN/33320886059/2006-07, TIN/33320886059/2008-09 and TIN/33320886059/2007-08, respectively dated 28.01.15 and quash the same being illegal invalid without authority of law and violated the principles of natural justice and also law laid down by this Honourable Court

For Petitioner : Mr.D.Vijayakumar

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

C O M M O N O R D E R

Heard the learned counsel for the petitioner and the learned Additional Government Pleader (Taxes), who took notice for the respondent and with their consent, the writ petitions themselves are taken up for hearing at the admission stage itself.

2. The petitioner has come forward with these writ petitions challenging the orders of the respondent dated 28.01.2015.

3. The petitioner was carrying on the business of welding job work and they have not effected any sales. They registered themselves as a dealer under the TNGST Act in the year 2006. After 2007, the petitioner extended the business of doing installing steel

roofing for individual houses and industries. The petitioner doing the business for a very minimum profit and whatever earned in the job work is only sufficient for paying the third party interests and their daily bread. On 19.06.2010, the enforcement wing officers of the Commercial Tax Department conducted inspection and seized all the purchase, sale bills, bank passbooks and other documents available in the premises without furnishing copies. Based on the inspection, the respondent issued notices dated 21.03.2011 for the assessment years 2006-07 to 2010-11, proposing to levy tax and penalty for the bank deposit treated as sale receipts. After receiving the notices, the petitioner represented in person before the then assessing officer and stated the fact that they were doing only the welding work and they have not effected any sales. Considering the said submission, the then assessing officer dropped further action. But, thereafter, the assessing officer issued notices for all the 16 assessment years including the sister concern. The petitioner represented in person on 27.01.2015 and explained the case. However, the respondent passed the assessment orders without any details about D7 records. Hence, the petitioner has come forward with these writ petitions.

4. The learned counsel for the petitioner submitted that the respondent relied on bank deposits records for assessment and without furnishing the copies of said records passed the impugned orders based on the enforcement wing officer's statement. The learned counsel further submitted that the petitioner has agreed to pay 5% of the tax amount as determined by the respondent for each of the assessment years, without prejudice to their rights.

5. It is not in dispute that the petitioner has received the notices and also given an opportunity to submit his objections. It is also not in dispute that an opportunity of personal hearing was given to the petitioner. But, unfortunately, the entire amount mentioned in the Bank Accounts has been treated as the amount received from the business transactions. Admittedly, break up details have not been given by the authority for arriving such amounts. Hence, only on that score, the impugned orders are liable to be set aside.

6. In view of the same, the Writ Petitions are allowed and the impugned orders are set aside. The matters are remitted back to the respondent to consider the case of the petitioner afresh and pass appropriate orders on merits and in accordance with law by giving break up details as stated supra.

7. The respondent is directed to accept 5% of the amount demanded in the impugned orders for each of the assessment years, which the petitioner has agreed to pay the same on or before 30.04.2015. On receipt of the said amount, the respondent is directed to consider the case of the petitioner afresh and pass appropriate orders on merits and in accordance with law, after furnishing the details about D7 records, by giving break up details

as mentioned supra. No costs. Connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To

The Assistant Commissioner(CT)
Tambaram Assessment Circle
19-A Shivashanmugam Salai
West Tambaram Chennai- 45.

+2 cc's to spl.Government Pleader (T)SR.18653

+2 cc's toMr.D.Vijayakumar, Advocate,SR.18439.

rsi(co)
krd 9/4

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