IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.01.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.28048 of 2013 and

W.P.Nos.5306 to 5311 of 2014 and M.P.Nos.1 to 1 of 2014

Shri Krisshna Builders & Property
Developers Pvt., Ltd.,
15, Poonamallee High Road,
Maduravoyal, Chennai ...Petitioner in W.P.No.28048 of 2013
& W.P.No.5306 to 5311/2014

Vs

The Assistant Commissioner (CT)
Koyambedu Assessment Circle,
Chennai. ..Respondent in W.P.No.28048 of 2013
& W.P.No.5306 to 5311/2014.

Prayer in W.P.No.28048 of 2013: Writ Petition has been filed under Article 226 of the Constitution of India to issue a Writ of Certiorari Mandamus to call for the records of the respondent herein in Rc.3124/2013/B1 and quash the order dated 10.09.2013 and direct the respondent to grant copies of the records and documents relied on him for the purpose of revision of assessment of the petitioner herein for the assessment years 2007-2008 to 2012-13 to enable the petitioner to file appropriate objections before passing any orders for the said assessment years.

Prayer in W.P.No.5306 to 5311/2014

Writ petition has been filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records of the Respondents herein:

TIN.3358078223/2007-08

TIN.3358078223/2008-09

TIN.3358078223/2009-2010

TIN.3358078223/2010-2011

TIN.3358078223/2011-2012

TIN.3358078223/2012-2013 and quash order dated 10.2.2014 respectively.

For Petitioner :Mr.L.Muralikrishnan

For Respondent :Mr.Manohar Sundaram
Additional Government Pleader (Tax)

COMMON ORDER

The petitioner has come forward with the afore said prayers.

2.The petitioner's case is that the respondent has issued pre-revision notice for the assessment years 2007-2008 to 2012-2013 on the basis of the proposal received by them from the enforcement wing officials. The respondent has also listed out various documents that has been relied upon for the purpose of revision of assessment. Therefore, the petitioner requested for the copy of those documents under the Right to Information Act. The respondent, however, refused to give the copies of the relevant record contending that under proviso of Section 8(1)(e) of the Right to Information Act, the authorities exempted from giving such information.

3.The learned counsel for the petitioner submitted that these records are relied upon for the purpose of revision of assessment and the petitioner is entitled to six other documents, which is mentioned in the pre-revision notice dated 18.07.2013.

4.In view of the submissions made by the petitioner and taking note of the fact that the petitioner is entitled to the copy of the documents for filing appropriate objections, this Court directs the respondent to furnish the copy of the records that were relied upon by the authority concerned, for the purpose of revision of assessment for the assessment years 2007- 2008 to 2012-2013, the W.P.Nos.5306 to 5311 of 2014 are allowed and it is open to the parties concerned to raise all their factual and legal submissions available to them in accordance with law.

5.During the pendency of the Writ Petitions, there was an interim order in W.P.No.28048 of 2013, which reads as follows:-

> " Mr.A.R.Jeyaprathap, leaned Government Advocate (Tax) takes notice for the respondent. Post " for orders" on 31.10.2013. Time granted for submission of reply is extended till the disposal of the writ petition"

When there was earlier an interim order as stated supra and that this Court has granted time for the petitioner to submit reply till the disposal of the aforesaid Writ Petition, namely, W.P.No.28048 of 2013, the assessment order have been passed by the authority on 10.02.2014. When there is an order from this Court, the Authority should have waited for the reply from the petitioner. The petitioner has submitted that they have not filed any objections or reply and the petitioner has sought only the documents, but the reference made by the authority concerned that objections is filed by the petitioner and the same has been considered and that the petitioner have not produced documents are all erroneous. When the petitioner submits that there is no reply and that this Court has granted time till the disposal of the Writ Petition and that Writ Petition is getting disposed of only today, the factual observation made by the authority that the objections are filed by the dealer, is not correct. Hence the order impugned in the writ petition is set aside and the writ petition is allowed.

6.This Court directs the respondent to furnish the documents referred to in the pre-revision notice within a period of four weeks from the date of receipt of copy of the order and the original records shall be handed over to the petitioner immediately at the time of receiving of the copies of the documents. It is open to the petitioner to take necessary copies of the documents to enable them to file reply/objections to the pre-revision notice based on the documents that is going to be furnished by the respondent and also xerox copies of the documents are to be taken by the petitioner from their own record, which are to be submitted by them at the time of receiving the documents from the respondents. The petitioner shall reply/file their documents within a period of four weeks from the date of receipt of copy of documents from the respondent. On scrutinising the documents and if required for personal hearing, the authority concerned is directed to pass orders within a period of two months from the date of personal hearing. If the petitioner fails to file any objections, it is open to the authorities to pass orders on merits and in accordance with law not influenced by the impugned orders that are quashed by this Court in W.P.No.5306 to 5311 of 2014. Consequently connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssd

To

The Assistant Commissioner (CT)
Koyambedu Assessment Circle,
Chennai.
1 cc to Mr. L.Muralikrishnan,Advocate, SR.No.4346/2015

W.P.No.28048 of 2013 and

W.P.Nos.5306 to 5311 of 2014

cnr(co)pmk.26.2.2015