BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :**21.08.2015**

CORAM

THE HONOURABLE **MR.JUSTICE R.SUBBIAH**

W.P(MD).Nos.13413 to 13416 of 2015
and
M.P(MD)No.1 of 2015(In all W.Ps)

M/s.Shinago Infrastructure & Resources Ltd.,
Rep. By its Managing Director Mr.Shivgan K.Patel,
No.329, Courtallam Road, Shencottah. ... Petitioner All WPS

Vs.

The Commercial Tax Officer,
Shencottah -(C),Shencottah. ...Respondent ALL WPS

COMMON PRAYER: The Writ Petitions have been filed under Article 226 of Constitution of India to issue a Writ of Certiorarifed Mandamus to call for the records of the respondent in TIN No.33295702174/2010-11, 2011-12, 2012-2013, 2013-2014 and quash the order, dated 24.06.2015 as it is unlawful and in violation of the principles of natural justice and further direct the respondent to consider the objections letter, dated 25.06.2015 along with the records and returns filed by the petitioner in all perspective on its merits in terms of the decision of this Honourable Court reported in 9 VST 478 and pass appropriate orders in accordance with law.

For petitioner : Mr.R.D.Ganesan All WPS

For Respondent :Mr.R.Karthikeyan
Additional Government Pleader All WPS

ORDER

The Writ Petitions have been filed praying for a Writ of Certiorarifed Mandamus to call for the records of the respondent in TIN No.33295702174/2010-11, 2011-12, 2012-2013, 2013-2014 and quash the order dated 24.06.2015 as it is unlawful and in violation of the principles of natural justice and further direct the respondent to consider the objections letter, dated 25.06.2015 along with the records and returns filed by the petitioner in all perspective on its merits in terms of the decision of this Honourable Court reported in 9 VST 478 and pass appropriate orders in accordance with law.

2.The case of the petitioner is that the petitioner is a Dealer in Timber & Coal and for the assessment years 2010-2011, 2011-2012, 2012-

2013 and 2013-2014, the petitioner has originally reported the total and taxable turnover of Rs.164,86,89,284/-(for 2010-2011) Rs.294,04,21,433/-(2011-12), Rs.402,62,82,613/- for 2012-2013) and Rs.459,95,823/-(for 2013-2014) and assessed under self assessment Scheme under Section 22(2) of the Act. Thereafter, the respondent has issued notice for revision of assessment under Section 27 of TNVAT Act, based upon the cross verification report of the Joint Commissioner(CT) (Enf)(ISIC), Chennai, as per which the alleged sales omission was noticed in Annexure-II of the monthly returns filed by the petitioner for the above said assessment years. The petitioner has immediately taken steps to verify the sales transactions reported in Annexure-II with the copy of Annexure-I of the buyers. But, as the transactions given in the enclosure of the notice are numerous and due to late receipt of Copy of Annexure-I from the buyers, the petitioner has sought for further time beyond 15 days to file explanation. The petitioner has gathered all relevant records from the buyers and on detailed verification and comparison of Annexure-I of the petitioner & Annexure – II of the buyers, it is ultimately found that there is absolutely no omission of any transactions alleged to be treating it as sales suppression as per the notice issued by the respondent. On finding that, the petitioner has approached the respondent to have an appointment for production of records, but the respondent has passed the impugned order, dated 24.06.2015. The petitioner has immediately filed a letter dated 25.06.2015 itself requesting the respondent to consider the relevant sales details duly reported both by the petitioner and the buyers along with supporting records and to cancel the impugned order. Inspite of that, the respondent has refused to consider the records but immediately taken steps to enforce the collection of tax and penalty without any actual liability arising at the petitioner's hand. Further, the respondent has levied penalty under Section 27(3)(c) of the Act. Hence, the petitioner has come forward with these Writ Petitions for the above stated relief.

3. When the matter came up for hearing before this Court on 31.07.2015 the petitioner was directed to appear before the respondent respondent on 05.08.2015 at 11.00 a.m., along with required documents and objections.

4. Today, the learned counsel for the petitioner submitted that as per the direction of this Court, the petitioner has appeared before the respondent and produced all the documents in voluminous including reconciliation statement and now the matter is pending before the respondent and therefore, the impugned order may be set aside and the respondent may be directed to pass appropriate orders afresh.

5. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondent and perused the materials available on record.

6. I find some force in the submission made by the learned counsel for the petitioner. Since the petitioner has complied with the earlier direction of this Court and appeared before the respondent along with necessary records, this Court is inclined to set aside the order of the respondent.

7. In the result, the Writ Petitions are allowed and the order of the

respondent, dated 24.06.2015, is set aside. No Costs. The respondent is directed to afford personal hearing to the petitioner and pass appropriate orders after verification of documents, preferably within a period of eight weeks from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar

pm

To

The Commercial Tax Officer,
Shencottah -(C),
Shencottah.

+4CC to Mr.R.D.Ganesan Advocate Sr.No.48670, 48671, 48672, 48673
+1CC to Spl.Govrnment Pleader Sr.No.48890

GJM/JGB/DP/SAR(AD)-3.9.15-3P-7C

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