BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.01.2015

CORAM :

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

W.P(MD)Nos.20535 to 20538 of 2014
and
Connected Miscellaneous Petitions

M/s.Sree Lakshmi Stores,
Represented by its Partner,
254, East Masi Street,
Madurai. ...Petitioner in all WPs

Vs.

The Assistant Commissioner(CT),
Vengalakadai Street Circle,
Madurai. ...Respondent in all WPs

W.P(MD)No.20535/2014: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondent to provide all the documents and details requested by the petitioner in its objections dated 23.09.2014 filed pursuant to the pre-revision notice in TIN 33704861104/2009-2010 dated 28.08.2014 received from the respondent and thereafter to grant opportunity to the petitioner to file its objections and then pass orders in accordance with law.

W.P(MD)No.20536/2014: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondent to provide all the documents and details requested by the petitioner in its objections dated 19.11.2014 filed pursuant to the pre-revision notice in TIN 33704861104/2010-2011 dated 05.11.2014 received from the respondent and thereafter to grant opportunity to the petitioner to file its objections and then pass orders in accordance with law.

W.P(MD)No.20537/2014: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondent to provide all the documents and details requested by the petitioner in its objections dated 19.11.2014 filed pursuant to the pre-revision notice in TIN 33704861104/2011-2012 dated 05.11.2014 received from the respondent and thereafter to grant opportunity to the petitioner to file its objections and then pass orders in accordance with law.

W.P(MD)No.20538/2014: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondent to provide all the documents and details requested by the petitioner in its objections dated 19.11.2014 filed pursuant to the pre-revision notice in TIN 33704861104/2012-2013 dated 05.11.2014 received from the respondent and thereafter to grant opportunity to the petitioner to file its objections and then pass orders in accordance with law.

For Petitioner (in all WPs): Mr.P.Rajkumar
For Respondent (in all WPs): Mr.Aayiram K.Selvakumar, GA

C O M M O N O R D E R

In all the writ petitions, the petitioner has sought for a direction to the respondent to provide all the documents and details requested by it in its objections dated 23.09.2014, 19.11.2014, 19.11.2014 and

19.11.2014 respectively, filed pursuant to the pre-revision notices in TIN 33704861104/2009-2010 dated 28.08.2014, TIN 33704861104/2010-2011 dated 05.11.2014, TIN 33704861104/2011-2012 dated 05.11.2014 and TIN 33704861104/2012-2013 dated 05.11.2014 respectively.

2.According to the petitioner, on receipt of the abovesaid pre-revision notices, they submitted objections dated 23.09.2014, 19.11.2014, 19.11.2014 and 19.11.2014 respectively, seeking certain documents and details within a period of 30 days from the date of receipt of the notices. In spite of the abovesaid request, the petitioner was neither given opportunity nor given any documents. They would also contend that later on, on 02.02.2014, a notice was sent by the respondent enclosing a copy of the Web Report for the assessment years 2009-10, 2010-11, 2011-12 and 2012-13 informing that the other details requested by the petitioner are not available in their office. According to the petitioner, from the details enclosed by the respondent, no purchase suppression can be alleged against them.

3.Placing reliance on a Division Bench Judgment made in State of Tamil Nadu vs. A.N.S.Guptha and Sons reported in [2011] 38 VST 45 (Mad), learned counsel for the petitioner submitted that the assessing authority has to decide the matter independently and not from the records or any materials which were obtained by themselves behind the back of the petitioner. Therefore, the petitioners have come forward with the present writ petitions apprehending that the respondent may pass orders without giving an opportunity before passing the order.

4.Learned counsel appearing for the respondent on instructions, would only contend that the respondent will give necessary documents which are available with them and also give an opportunity of hearing to the petitioner and thereafter will pass appropriate orders in accordance with law.

5.In view of the above, the main writ petition itself is taken up for final disposal with the consent of both sides.

6.As rightly contended by the learned counsel for the petitioner, the issue raised in the present writ petitions is squarely covered by a Division Bench Judgment in State of Tamil Nadu vs. A.N.S.Guptha and Sons reported in [2011] 38 VST 45 (Mad), (in which I was a party) wherein, it has been held that the assessing officer, who evaluates whether a particular person is liable to be taxed or exemption to be granted, acts in a quasi-judicial function. In discharge of such function, the authority has every right to seek for evidence, take into consideration the material records and also after analysing the details of facts, apply the law in the strict sense under the concerned provision of law. It has been further held that the assessing officer should have decided the matter on merits independently unbiased and uninfluenced by any other subsequent factors.

7.In this case, the petitioner has applied for certain documents. No doubt, the assessing authority has to give the documents sought for. However, now it is the categorical submission of the learned counsel appearing for the respondent that the respondent will give opportunity of hearing to the petitioner and also any other documents available with them. Therefore, it is suffice to state that the assessing authority shall comply with the request of the petitioner in so far as the grant of documents sought for by the petitioner and before passing further orders, shall afford an opportunity of personal hearing to the petitioner.

8.With the abovesaid directions, the writ petitions are disposed of. Connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(RTI)

/True copy/

Sub Assistant Registrar

To
The Assistant Commissioner(CT),
Vengalakadai Street Circle,
Madurai.

+1CC to M/s.P.Rajkumar, Advocate in SR.433
+1CC to the Special Government Pleader in SR.968

W.P(MD)Nos.20535 to 20538 of 2014
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