IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.03.2016

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THE HON'BLE Mr. JUSTICE M.DURAISWAMY

W.P.Nos.1124 & 1125 of 2016
and W.M.P.Nos.857 to 860 of 2016

S.Velusamy ... Petitioner in both W.Ps

Vs.

The Assistant Commissioner (CT),
Bhavani Assessment Circle,
Erode. ... Respondent in both W.Ps

Petitions filed under Article 226 of The Constitution of India praying to issue a writ of certiorari to call for the records of the respondent in TIN No.33282942481/2010-11 dated 11.12.2015 and connected proceedings dated 17.07.2015 and TIN No.33282942481/2011-12 dated 11.12.2015 and connected proceedings dated 14.07.2015 and quash the same as being without jurisdiction and authority of law and contrary to the principles of natural justice.

For Petitioner : Mr.R.Senniappan
(in both W.Ps)
For Respondent : Mr.Manoharan Sundaram,
(in both W.Ps) Additional Government Pleader (Tax) \

COMMON ORDER

The petitioner has filed the above Writ Petitions to issue writs of certiorari to call for the records of the respondent in TIN No.33282942481 for the assessment years 2010-11 and 2011-12 dated 11.12.2015 and connected proceedings dated 17.07.2015 and 14.07.2015 respectively and to quash the same as being without jurisdiction and authority of law and contrary to the principles of natural justice.

2.It is the case of the petitioner that the respondent had passed the impugned orders erroneously without jurisdiction and authority of law. Further, the petitioner contended that the authority should have taken into account the license issued by the Joint Chief Controller of Explosives (South) Circle, Chennai and also given an opportunity of personal hearing to put forth their case.

3.Mr.Manoharan Sundaram, learned Additional Government Pleader (Tax) appearing for the respondent submitted that since the petitioner has not produced the Agreement before the authority, the impugned orders were passed by the respondent. Further, the learned Additional Government Pleader submitted that the respondent had no occasion to consider the Agreement, which is in the custody of the petitioner.

4.The learned counsel for the petitioner submitted that in the Blasting Charges Bill dated 28.08.2015 itself the petitioner has stated that the explosives are not for sale and it was only for own use. Further, the learned counsel submitted that it has been wrongly mentioned as though VAT was paid in respect of sale of explosives, which according to the petitioner is a wrong entry.

5.In these circumstances, I am of the view that the petitioner can be given an opportunity to produce the Agreement before the respondent for consideration. In these circumstances, the impugned orders dated 11.12.2015, 14.07.2015 and 17.07.2015 are set aside. The matter is remanded back to the respondent for fresh consideration. The petitioner shall produce the Agreement before the respondent within one week from the date of receipt of a copy of this order and the respondent is directed to consider the Agreement to be produced by the petitioner and pass orders, on merits and in accordance with law, after giving due opportunity of personal hearing to the petitioner and also take into consideration the Clarification No.64/2004 dated 05.03.2004 and the Blasting Charges Bill dated 28.08.2015 while deciding the matter.

6.With these observations, the Writ Petitions are disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.
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-s/d-
Assistant Registrar(CS-I)

True Copy

Sub-Assistant Registrar

To
The Assistant Commissioner (CT),
Bhavani Assessment Circle, Erode.

+ 1 cc to Mr.R.Senniappan, Advocate, SR 13690
+ 1 cc to Spl.Govt Pleader(Taxes), SR 13871.

tej(co)
prk7/3

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