IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.02.2016

CORAM

THE HONOURABLE Mr. JUSTICE M.DURAISWAMY

W.P.Nos.1654 & 1655 of 2016 &
W.M.P.Nos.1428 & 1429 of 2016

Wipro GE Healthcare Private Limited,
4th Floor, Kamak Tower,
Plot No.12-A(SP), Thiru.Vi.Ka. Industrial Estate
Ekkaduthangal, Guindy, Chennai-32
Rep. by Power Of Attorney
Rejini Ganapathy. .. Petitioner in both WPs

v.

1 Assistant Commissioner (Commercial Taxes)
Guindy Assessment Circle
46, Greenways Road
Chennai-600 028.

2 Deputy Commissioner (Commercial Taxes)
Zone-VIII, No.1, Greams Road 2nd Floor
Chennai-600 006.

3 Commissioner of Commercial Taxes
Ezhilagam, Chepauk
Chennai-600 005.

4 Joint Commissioner (Commercial Taxes)
Enforcement Wing-II
PAPJM Building, Greams Road
Chennai-600 006. .. Respondents in both WPs

W.P.No.1654/2016 filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, Calling for the records pertaining to TIN No. 33021582102/2013-14 and quash the impugned assessment order dated 16 December 2015 passed by the Respondent No.1 as against the Petitioner under Section 27(1)(a) of the Tamil Nadu Value Added Tax 2006 for the year 2013-14 and the consequent notice of tax in Form O dated 16 December 2015 and notice of penalty dated 16 December 2015 in Form RR and direct the Respondent No.1 to pass an fresh assessment order after affording an personal hearing to the Petitioner under Section 27(1)(a) of the Tamil Nadu Value Added Tax Act 2006

W.P.No.1655/2016 filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, Calling for the records pertaining to CST No.820922/2013-2014 and quash the impugned Assessment Order dated 16th December 2015 passed by the Respondent No.1 under Section 9(2) of the Central Sales Tax Act 1956 read with Section 27(1)(a) of the Tamil Nadu Value Added Tax 2006 for the year 2013-2014 alongwith the consequent Notice of Tax demand dated 16th December 2015 in Form-3 and Notice for Penalty dated 16th December 2015 in Form RR for the year 2013-2014 and direct the respondent No.1 to pass fresh Assessment Order after affording an opportunity of personal hearing to the petitioner under Section 9(2) of the Central Sales Tax Act 1956 read with Section 27(1)(a) of the Tamil Nadu Value Added Tax 2006

For Petitioner : Mr.P.S.Raman
Sr. Counsel for
Mr.A.K.Raghavulu

For Respondent : Mr.Manoharan Sundaram
Addl. Govt. Pleader

COMMON ORDER

Writ Petition No.1654 of 2016 has been filed by the petitioner to issue a Writ of Certiorarified Mandamus to call for the records pertaining to TIN No.33021582102/2013-14 and to quash the impugned assessment order dated 16.12.2015 passed by the first respondent under Section 27(1)(a) of the Tamil Nadu Value Added Tax 2006 for the year 2013-14 and the consequent notice of tax in Form "O" dated 16.12.2015 and notice of penalty dated 16.12.2015 in Form "RR" and direct the first respondent to pass a fresh assessment order after affording an opportunity of personal hearing to the petitioner under Section 27(1)(a) of the Tamil Nadu Value Added Tax Act 2006.

2. Writ Petition No.1655 of 2016 has been filed by the petitioner to issue a Writ of Certiorarified Mandamus to call for the records pertaining to CST No.820922/2013-2014 and to quash the impugned Assessment Order dated 16.12.2015 passed by the first respondent under Section 9(2) of the Central Sales Tax Act 1956 read with Section 27(1)(a) of the Tamil Nadu Value Added Tax 2006 for the year 2013-2014 along with the consequent Notice of Tax demand dated 16.12.2015 in Form "3" and Notice for Penalty dated 16.12.2015 in Form "RR" for the year 2013-2014 and direct the first respondent to pass fresh Assessment Order after affording an opportunity of personal hearing to the petitioner under Section 9(2) of the Central Sales Tax Act 1956 read with Section 27(1)(a) of the Tamil Nadu Value Added Tax 2006

3. Heard Mr.P.S.Raman, learned Senior Counsel, appearing for the petitioner and Mr.Manoharan Sundaram, learned Additional Government Pleader, appearing for the respondents.

4. It is the main contention of the learned Senior Counsel appearing for the petitioner that though the Assessing Officer had prepared a Deviation Report, the impugned orders of assessment have been passed verbatim reproducing the findings rendered by the Enforcement Wing. In this regard, the learned Senior Counsel submitted that on a perusal of the impugned orders, it could be seen that the first respondent had passed the impugned orders without applying his mind and following the order passed by the Enforcement Wing. Therefore, the reading of the impugned orders clearly establish that the first respondent had followed the order passed by the Enforcement Wing and passed the impugned orders. That apart, the orders passed by the first respondent also establish that total non-application of mind on the part of the first respondent.

5. Mr.Manoharan Sundaram, learned Additional Government Pleader, appearing for the respondents submitted that the impugned orders may be set aside and the first respondent may be directed to pass a fresh order after hearing the petitioner, on merits and in accordance with law.

6. Having regard to the submissions made by the learned counsel on either side, for the reasons stated above, the impugned orders passed by the first respondent are set aside and the matters are remitted back to the first respondent for fresh consideration and the first respondent is directed to consider the case of the petitioner after hearing the submissions on behalf of the petitioner and pass a fresh orders on merits and in accordance with law , within a period of eight weeks from the date of receipt of a copy of this order, without being influenced by any of the observations given by the Enforcement Wing.

With these observations, the writ petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

sd/-
Assistant Registrar(Cs-V)

/TRUE COPY/

Sub-Assistant Registrar

Rj

To

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Enforcement Wing-II
PAPJM Building, Greams Road
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+1 CC to MR.A.K.Raghavulu Advocate. SR.NO.6999
+1 CC to Special Govt.Pleader(T). SR.NO.7251

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CO-SAI
JD 12/02/2016