IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE:25.07.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.22956 to 22960 of 2015

and M.P.Nos.1 to 1 of 2015

M/s.Varsheni Associates,
Represented by its Partner M C Ragunathan
No.4/10, Baskarapuram
East Abiramapuram, Mylapore,
Chennai - 600 004. .. Petitioner in all WPs.

Vs.

The Assistant Commissioner (CT)
Alwarpet Assessment Circle,
No.46, Greenways Road,
Chennai - 600 028. .. Respondent in all WPs.

Prayer:Petitions filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari to call for the records of the respondent in the impugned order in 33170821006/2009-10 dated 05.06.2015; 33170821006/2010-11 dated 05.06.2015: 790429/2010-11 dated 05.06.2015: 33170821006/2011-12 dated 05.06.2015: 33170821006/ 2012-13 dated 05.06.2015, quash the same as it violates the principles of natural justice.

For Petitioner : Mr.K.Vaitheeswaran
No appearance

For Respondent : Mr.Manokaran Sundaram
Additional Government Pleader

COMMON ORDER

None appears for the petitioner. Heard Mr.Manokaran Sundaram, learned Additional Government Pleader for the respondent.

2.These writ petitions have been filed by the petitioner challenging the assessment orders passed under the provisions of the Tamil Nadu Value Added Tax Act, 2006 for the years 2009-2010, 2010-2011, 2010-2011, 2011-2012 and 2012-2013. Though factual averments have been raised in the affidavit filed in support of the writ petitions and several decisions have been referred to, the petitioner has submitted that the impugned orders have been passed in violation of the principles of natural justice.

3.Perusal of the material papers filed along with the writ petitions show that the pre-revision notice dated 28.04.2014 was issued to the petitioner calling upon them to submit their objections. The petitioner, by letter dated 05.05.2014, requested for time to file their objections. It is not in dispute that the office of the respondent has received the request for adjournment on 05.05.2014. However, the respondent did not either accept or reject the petitioner's request. However, it may be true that the petitioner also did not specifically plead as to how many days are required for filing their objections. Nevertheless, the respondent having received such a representation ought to have either accepted the request and fixed the time limit or should have rejected the request and intimated the petitioner that he is going to proceed with the assessment ex parte. While doing so, the respondent could have also indicated that an opportunity of personal hearing will be granted. However, the respondent proceeded to decide the matter ex parte and after which, the respondent has received the petitioner's objections dated 20.06.2014. Thus, considering the peculiar facts and circumstances of the case, this Court is of the view that one more opportunity can be granted to the petitioner to establish their cases.

4.In the light of the above, these Writ Petitions are allowed and the impugned orders are set aside and the matter is remanded to the respondent for fresh consideration, who shall consider the petitioner's objections and after afford an opportunity of personal hearing, redo the assessment in accordance with law. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

To

The Assistant Commissioner (CT)
Alwarpet Assessment Circle,
No.46, Greenways Road,
Chennai - 600 028.

+1 cc to Spl.Govt.Pleader,sr.42178

+1 cc to Mr.K.Vaitheeswaran,advocate,sr.42089.

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