IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.08.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.22970 to 22972 of 2015

Indian Oil Petronas Private Limited,
Rep. By its Deputy General Manager (Plant)
Mr.S.Sekar,
No.143, Athipattu Village,
NCPTS Main Road,
Chennai – 600 120. ... Petitioner in all the Writ Petitions

Vs.

The Assistant Commissioner (CT),
Cholavaram Assessment Circle,
No.22, Jawaharlal Nagar 1st street,
Redhills, Chennai – 600 052. ... Respondent in all the Writ Petitions

COMMON PRAYER: Writ Petitions filed under Article 226 of Constitution of India praying to issue Writ of certiorari to call for the records relating to the assessment order in CST Nos.896545/2012-13, 896545/2013-14 and 896545/2014-15, respectively, dated 23.06.2015, passed by the respondent, quash the same as arbitrary and illegal.

For Petitioner in all WPs : Mr.Joseph Prabakar

For Respondent in all WPs : Ms.Vasudha Thiyagarajan, Additional Government Pleader

COMMON ORDER

Heard Mr.Joseph Prabakar, learned counsel for the petitioner and Ms.Vasudha Thiyagarajan, learned Additional Government Pleader for the respondent, and with the consent of either side, the writ petitions are taken up for disposal.

2. The petitioner is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (TN VAT Act) and Central Sales Tax Act, 1956. In these writ petitions, the petitioner has challenged the orders of assessments for the years 2012-13, 2013-14 and 2014-15.

3. The petitioner's primary ground of challenge is that without notice and without providing an opportunity of personal hearing, the impugned assessments orders have been passed. Secondly, it is submitted that Section 87A of the TN VAT Act would have no applicability to the facts and circumstances of the case as that provision dealt with the period from 1st April, 2006 to 31st December, 2006, which fell prior to the period on which TNVAT Act came to be implemented. In order to afford an opportunity to the respondent to answer the same, while granting an order of interim stay on 29.07.2015, this specific contention raised by the petitioner was recorded in the stay order.

4. Though notice has been served on the respondent, till date no counter affidavit has been filed. Learned Additional Government Pleader for the respondent, on instruction, submitted that the petitioner may be directed to appear before the authorities along 'C' forms and the authority may be directed to redo the assessment.

5. Considering the fact that the impugned assessments orders have been passed without issuing any notice and without affording an opportunity of personal hearing to the petitioner, the same are liable to be set aside on the ground of violation of the principles of natural justice. If the notice had been issued to the petitioner, then obviously the respondent should have made a reference to the pre-revision notice and as to whether the petitioner has submitted an objection. Thus, in the absence of any specific mention as regard to issuance of notice, this Court has come to the conclusion that the assessments have been completed without issuing any show cause notice to the petitioner.

6. In the light of the above, the writ petitions are allowed and the impugned assessments orders are set aside and the matter is remanded back to the respondent for fresh consideration. The respondent is directed to issue pre-revision notice within a period of 15 days from the date of receipt of a copy of this order granting 15 days time to the petitioner to submit their objections along with the documents and after affording an opportunity of personal hearing to the petitioner, redo the assessment in accordance with law. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

rkm

To

The Assistant Commissioner (CT),
Cholavaram Assessment Circle,
No.22, Jawaharlal Nagar 1st street,
Redhills, Chennai - 600 052.

+1cc to Mr.Joseph Prabakar, Advocate, S.R.No.45051
+1cc to the Special Government Pleader(T), S.R.No.45255

W.P.Nos.22970 to 22972 of 2015

VD(CO)
CA(31/08/2016)