IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 19-05-2016

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.P.Nos.18296 TO 18300 OF 2016

W.P.No.18296/2016 :

M/s.Adinath Dairy Company,
rep.by its Authorised Signatory Mr.Hemanth Chordia,
No.17/10, 9th Street, Dr.R.K.Salai,
Mylapore,
Chennai . ... Petitioner in all WPs

-vs-

1.The Commercial Tax Officer,
Thiruvallikeni Assessment Circle,
No.48, Pasumpon Muthuramalingadevar Salai,
Greenways Road,
Chennai-600 028.

2.The Joint Commissioner (CT)-II,
Enforcement, PAPJM Buildings,
Greams Road,
Chennai-600 006.

3.The Branch Manager,
Punjab National Bank,
Taylors Road,
Chennai-600 010. ... Respondents in all WPs

WP No.18296 to 18299 of 2016: Writ Petitiones filed under Article 226 of Constitution of India, to issue a writ of certiorarified mandamus directing to call for the records of the first respondent in TIN 330 2074 2955/2011-2012 2012-13, 2013-14, 2014-15 respectively, and quash the impugned revised order of assessment dated 31.03.2016 and further direct the respondent to re-do the Assessment in light of the law declared by the Apex Court.

WP No.18300 of 2016: Writ Petitions filed under Article 226 of the constitution of India to issue a writ of certiorari, direction, or order to call for the records of the first respondent in RC.347/2016/A3 dt 10.5.2016 quash the same as arbitrary excessive and contrary to the procedure prescribed under sec. 45 (1) of the Tamil Nadu Value Added Tax Act 2006.

For petitioner in all WPs : Mr.V.Sundareswaran

For respondents in all WPs : Mr.V.Haribabu, Addl.Govt.Pleader (Tax).

COMMON ORDER

These Writ Petitions have been filed, praying for issuance of a writ of certiorarified mandamus, to quash the impugned orders of the first respondent, and for a further direction to the respondent to re-do the assessment in the light of the law declared by the Apex Court.

2. Learned counsel for the petitioner would submit that the petitioner has submitted his reply to the show cause notices issued by the respondents and he also sought for a personal hearing in respect of the same, however, without affording an opportunity of personal hearing to the petitioner, the impugned orders came to be passed and, therefore, the impugned orders are liable to be quashed.

3. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents.

4. In the case of State of Andhra Pradesh and Others v. Larsen & Tourbo Ltd., and Others, (2008) 17 VST 1 (SC), the Hon'ble Supreme Court, in paragraph 27, has quashed the order of assessment therein, as the assessee was not given an opportunity of personal hearing. In the case on hand, there is no material to show that the respondents have provided an opportunity of personal hearing to the petitioner.

5. Given the above factual position and the dictum laid down by the Apex Court in the case of State of Andhra Pradesh and Others v. Larsen & Tourbo Ltd., and Others, cited supra, the orders imugned in these Writ Petitions are quashed and the matter is remitted to the first respondent, for fresh consideration and passing appropriate orders, after affording an opportunity of personal hearing to the petitioner. In view of the above order, the consequential orders of attachment, if any, shall also stand set aside.

6. Writ Petitions are disposed of accordingly. No costs. Consequently, the connected W.M.P.Nos.16002 to 16007 of 2016 are closed.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

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To:

1. The Commercial Tax Officer,
Thiruvallikeni Assessment Circle,
No.48, Pasumpon Muthuramalingadevan Sabai,
Greenways Road, Chennai 600 028.

2. The Joint Commissioner (CT)II,
Enforcement, PAPJM Buildings,
Greens Road, Chennai 600 006.

1 cc to Mr.V.Sundareswaran, Advocate, sr.28573
1 cc to The Special Government Pleader(Taxes), sr.28576

W.P.No.18296-18300 OF 2016

ev co
kra 30.05.2016