IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.02.2016

CORAM

THE HON'BLE Mr. JUSTICE M.DURAISWAMY

W.P.Nos.26654 to 26656 of 2015
and M.P.Nos.1 & 1, 2 & 1, 2 of 2015
and W.P.Nos.26657 to 26659 of 2015

M/s Labindia Instruments Pvt. Ltd.,
rep by its Director,
No.165, Eldams Road,
Teynampet, Chennai - 600 018. ... Petitioner in all W.Ps

Vs.

1.The Commercial Tax Officer,
Mylapore Assessment Circle,
Chennai - 600 028.

2.The Appellate Deputy Commissioner (CT),
Chennai (East),
Greams Road,
Chennai - 600 006. ... Respondents in all W.Ps

W.P.Nos.26654 and 26657 of 2015:

Petitions filed under Article 226 of The Constitution of India praying to issue a writ of certiorari to call for the records of the second respondent in proceedings in Appeal No & Year: CST.11/2014 and quash the order dated 06.07.2015, made therein in relation to the assessment year CST No.790219/2007-08 respectively; Appeal No & Year: CST.12/2014 and quash the order dated 06.07.2015, made therein in relation to the assessment year CST No.790219/2008-09.

W.P.No.26655 of 2015 and 26656 of 2015:

Petition filed Under Article 226 of the Constitution of India praying this Hon'ble court to issue a Writ of Certiorari Calling for the records of the first Respondent in his proceeding in CST.No.790219/2007-08 quash the assessment order dated 22.06.2011 and 30.06.2011 made herein respectively.

W.p.No.26658 of 2015 and 26659 of 2015

Petition filed Under Article 226 of the Constitution of India praying this Hon'ble Court to issue a writ of Certiorari calling for the records of the first respondent in his proceedings CST.No.790219/2008-09, quash the assessment order dated 22.06.2011, 30.06.2011 made herein respectively.

For Petitioner (in all W.Ps)	:	Mr.R.L.Ramani, Senior Counsel for M/s.B.Raveendran
For Respondents (in all W.Ps)	:	Mr.Manoharan Sundaram, Additional Government Pleader (Tax)

C O M M O N   O R D E R

The petitioner has filed the above Writ Petitions to issue writs of certiorari to call for the records of the 1st respondent in proceedings in CST No.790219 for the assessment years 2007-08 and 2008-09 and to quash the assessment orders dated 22.06.2011 and 30.06.2011 made therein.

2.Mr.R.L.Ramani, learned senior counsel appearing for the petitioner submitted that the 1st respondent had passed the impugned order on 22.06.2011 itself on the 15th day from the date of issuance of the notice.

3.On a perusal of the order dated 22.06.2011, it is clear that the notice issued to the petitioner was served by RPAD on 07.06.2011 wherein the petitioner was called upon to file their objections, if any, within 15 days from the date of receipt of the said notice. Even as per the order dated 22.06.2011, 15 days time granted in the notice served on 07.06.2011 expired only on 22.06.2011. But the respondent had passed the impugned order on 22.06.2011, without waiting for the expiry of the 15 days time.

4.The learned senior counsel for the petitioner submitted that on this ground the impugned orders are liable to be set aside and the respondent should be directed to decide the matter afresh.

5.Mr.Manoharan Sundaram, learned Additional Government Pleader (Tax) appearing for the respondents submitted that in view of the submissions made by the learned senior counsel for the petitioner that the order dated 22.06.2011 was passed on the 15th day from the date of receipt of the notice, the impugned order may be set aside and the 1st respondent may be directed to decide the matter afresh in accordance with law.

6.Having regard to the submissions made by the learned counsel on either side, since the 1st respondent had passed the impugned orders even before the expiry of the 15 days time granted in the notice, it clearly establishes that the same is in violation of principles of natural justice. In these circumstances, the impugned orders passed by the 1st respondent dated 22.06.2011 and 30.06.2011 and the order dated 06.07.2015 passed by the 2nd respondent are liable to be set aside. Accordingly, the orders are set aside and the matter is remanded back to the 1st respondent for fresh consideration. The 1st respondent is directed to decide the matter afresh, after taking into consideration the objections, if any, filed by the petitioner, on merits and in accordance with law, after giving due opportunity of personal hearing to the petitioner and verification of the account books of the petitioner. The 1st respondent is directed to decide the matter, on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order.

7.With these observations, the Writ Petitions are disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1.The Commercial Tax Officer,
Mylapore Assessment Circle,
Chennai - 600 028.

2.The Appellate Deputy Commissioner (CT),
Chennai (East),
Greams Road,
Chennai - 600 006.

+1cc to Mr.B.Raveendran, Advocate sr.12756
+1cc to Special Government Pleader, Sr.12856

W.P.Nos.26654 to 26656 of 2015
and M.P.Nos.1 & 1, 2 & 1, 2 of 2015
and W.P.Nos.26657 to 26659 of 2015

sv(CO)
srg(16/03/2016)