IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE:24.06.2016

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.21355 & 21356 of 2016

and

W.M.P.Nos.18283 & 18284 of 2016

M/s.Total Oil India Private Limited,
Represented by its Chief Financial Officer,
Guy Nicholas Mansfield,
No.131/IAIAB2A1A1, Puzhuthivakkam,
Madurantagam, Tamil Nadu .. Petitioner in both WPs

Vs.

The Assistant Commissioner,
Madurantagam Assessment Circle,
No.5, GST Road, Madurantagam,
Tamil Nadu. .. Respondent in both WPs

Prayer in WP.21355/2016 :Petition filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus calling for the records comprised in Impugned Revised Order dated January 19, 2016 served to the petitioner in TIN No.721549/2010-11 on the file of the first respondent, quash the same, to remand the matter afresh to the respondent.

Prayer in WP.21356/2016 :Petition filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus calling for the records comprised in Impugned Order dated April 18, 2016 served to the petitioner in TIN No.721549/2010-11 on the file of the first respondent, quash the same, to remand the matter afresh to the respondent.

(In both WPs)
For Petitioner : Mr.Mohammed Shaffiq

For Respondent : Mr.S.Kanmani Annamalai
Additional Government Pleader

COMMON ORDER

Heard Mr.Mohammed Shaffiq, learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader appearing for the respondent and with their consent, the Writ Petition is taken up for final disposal.

2.The petitioner, who is a registered dealer under the provisions of the Tamil Nadu Value Added Tax Act, 2006 and the Central Sales Tax Act, 1956, has filed these writ petitions challenging the order passed by the respondent dated 19.01.2016 and 18.04.2016.

3.By the impugned orders, the respondent has rejected the petitioner's revised return stating that it cannot be accepted after final orders have been passed. Record of the proceedings shows that an order of assessment came to be passed for the year 2010 -2011 on 19.01.2016 and 18.04.2016. Immediately, the petitioner filed an application for revision of assessment by application dated 27.01.2016, among other things, stating that they have obtained 17 C Forms and they requested the Assessing Officer to accept the same. Apart from that, the other issues are also pointed out. This was followed by another application dated 13.02.2016 wherein similar request was made to revise the return and to accept the C Forms. Revised the order of assessment, it is not disputed that these applications have been received by the respondent as could be seen from the acknowledgment given from the office of the respondent. If such is the case, it is not known as to why the respondent afford an opportunity to the petitioner and examine as to whether this C Forms are admissible.

4.The learned Additional Government Pleader appearing for the respondent fairly states that the respondent could not have straight away thrown out the petitioner's case, but ought to have seen the C Forms and other records produced and considered the tenability of the same.

5.In the light of the same, the Writ Petitions are allowed and the impugned orders dated 19.01.2016 and 18.04.2016 are set aside and the respondent is directed to redo the assessment after taking into consideration the C Forms filed by the petitioner and also the other issues which the petitioner may raise. The respondent is directed to afford an opportunity of personal hearing to the petitioner before completing the assessment. The above direction shall be complied with, within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

sgl
To

The Assistant Commissioner,
Madurantagam Assessment Circle,
No.5, GST Road, Madurantagam,
Tamil Nadu.

+1 cc to Mr.Mohammed Shaffia vide sr.35276
+1 cc to Special Government pleader (Taxes)vide sr.35484

W.P.Nos.21355 & 21356 of 2016

aa11/07/2016