IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-02-2016

CORAM:

THE HONOURABLE MR. JUSTICE M. DURAISWAMY

W.P.Nos.40358 to 40361 of 2015
and M.P.Nos.1 and 2 of 2015

M/s. Venus Decors
Rep. by its Proprietrix
New No.101, Choolai High Road
Chennai - 600 112 .. Petitioner

Vs

The Commercial Tax Officer
Vepery Assessment Circle
No.10, Greams Road
Chennai - 6 .. Respondent

Petitions filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus to call for the records of the respondent in TIN No.3330524583/2010-11, 2011-12, 2012-13 and 2013-14, dated 25-11-2015 and quash the same as ultra vires and contrary to law and further direct the respondent to grant an opportunity to the petitioner to place the available materials and consider the same without being influenced by the report of enforcement wing officials and pass orders.

For petitioner : Mr. C. Rekha Kumari
For respondent : Mr. S. Kanmani Annamalai, AGP (T)

ORDER

The petitioner has filed the above writ petitions to issue writ of certiorarified mandamus calling for the records of the respondent in TIN No.3330524583 for the assessment years 2010-11, 2011-12, 2012-13 and 2013-14, dated 25-11-2015 and quash the same as ultra vires and contrary to law and further direct the respondent to grant an opportunity to the petitioner to place the available materials and consider the same without being influenced by the report of enforcement wing officials.

2. It is the case of the petitioner that the respondent had passed the order without considering the materials available with them. On a perusal of the impugned order, it is clear that sufficient opportunity was given to the petitioner for producing

the documents. However, the petitioner has not produced the documents before the Assessing Officer. Left with no other alternative, the impugned order was passed by the respondent.

3. The learned counsel for the petitioner submitted that the petitioner is having all the documents with them and in the interest of justice, the petitioner may be permitted to produce all the documents before the respondent and in such case, the respondent may be directed to redo the assessment, on merits and in accordance with law.

4. Mr. Kanmani Annamalai, learned Additional Government Pleader appearing for the respondent submitted that though sufficient opportunity was given to the petitioner they failed to produce the documents before the Assessing Officer, which resulted in the impugned order. However, the learned Additional Government Pleader fairly submitted that in the interest of justice, the petitioner can be given one more opportunity to produce the necessary documents before the respondent and the respondent may be directed to decide the matter afresh, in accordance with law.

5. Having regard to the submissions made by the learned counsel on either side, I am of the view that though the respondent has given sufficient opportunity to the petitioner to produce the documents in the interest of justice, the petitioner can be given one more opportunity to produce all the documents available with them and the respondent can be directed to decide the matter afresh. Accordingly, the impugned orders dated 25-11-2015 are set aside and the respondent is directed to give an opportunity to the petitioner to produce all the necessary documents and on production of the documents by the petitioner, the respondent is directed to decide the matter afresh, after giving due opportunity of personal hearing to the petitioner.

6. With these observations, the writ petitions are disposed of. The petitioner is also permitted to file any additional reply, if necessary. However, such exercise of filing all the necessary documents available with the petitioner and the additional reply, shall be completed within a period of two weeks from the date of receipt of a copy of this order.

7. Costs made easy. The connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1. The Commercial Tax Officer
   Vepery Assessment Circle
   No.10, Greams Road
   Chennai - 6

+1 cc to the Special Government Pleader9T)
sr.11966

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aa18/03/2016