IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.07.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.24537 to 24542 of 2016

Tvl.T.P.S.Blue Metals,
Rep. By its Partner Mr.T.P.S.Sekar,
S.F.No.70/3-D, Thumbipaadi,
Salem - 636 305. ... Petitioner in all WPs

Vs.

The Assistant Commissioner (CT),
Omalur Assessment Circle,
Omalur, Salem District. ... Respondent in all WPs

PRAYER IN W.P.No.24537 of 2016: Writ Petition filed under Article 226 of Constitution of India praying to issue Writ of certiorarified mandamus to call for the records on the file of the respondent in TIN.33093242752/2008-09, 2009-10, 2010-11, 2011-12, 2012-13 & 2013-14 dated 14.08.2015 & 30.01.2015 respectively and quash the same as being contrary to the principle laid down by the Hon'ble Court in the judgment reported in (2007) 295 ITR 303 (mad) (V.Selladurai vs. Chief Commissioner of Income Tax (OSD) and another).

For Petitioner : Mr.R.Senniappan

For Respondent : Mr.S.Kanmani Annamalai,
Additional Government Pleader (T)

COMMON ORDER

Heard Mr.R.Senniappan, learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Tax) for the respondents, and with the consent of either side, the writ petitions are taken up for final disposal.

2. The petitioner, who is a registered dealer on the file of the respondent under the provision of the Tamil Nadu Value Added Tax Act, 2006 (TN VAT Act), has challenged the orders of assessment dated 14.08.2015 and 30.01.2015 under the provisions of the TN VAT Act for the years 2008-2009, 2009-2010, 2010-2011, 2011-2012, 2012-2013 and 2013-2014.

3. The only ground on which the impugned assessment orders have been challenged by contending that the petitioner was not afforded sufficient opportunity to put forth their objections before the Assessing Officer. Therefore, the petitioner would contend that the impugned assessment orders are in violation of the principles of natural justice. On a perusal of the impugned orders, it is seen that pre-assessment notice was issued to the petitioner which they have received, but the petitioner did not submit their objections. Therefore, it is not a case where no opportunity was afforded to the petitioner. But, it is a case where the petitioner failed to utilise the opportunity. Therefore, in normal circumstances, the Court would have directed the petitioner to file an appeal against the impugned assessment orders. However, the petitioner contended that the entire tax amount has been paid and therefore, one more opportunity may be granted to the petitioner to enable them to canvass the case on merits.

4. From the records placed before this Court, it was not clear as to whether the entire tax has been paid. Therefore, the learned Additional Government Pleader was directed to verify from the respondent as to whether the petitioner has paid the entire tax as demanded in the impugned assessment orders.

5. Today, when the matter is heard, learned Additional Government Pleader, on instruction from the respondent, submitted that the entire tax as quantified in the impugned assessment orders has been paid by the petitioner.

6. Therefore, in the light of the above facts, this Court is inclined to grant one more opportunity to the petitioner to submit their objections and contest the matter on merits. Accordingly, the writ petitions are disposed of by directing the petitioner to treat the impugned assessment orders as show cause notices and submit their objections within a period of two weeks from the date of receipt of a copy of this order. On receipt of such objections, the respondent shall afford an opportunity of personal hearing to the petitioner and proceed to pass the final assessment orders in accordance with law. The tax already paid by the petitioner shall be given

credit as against the demands that may be issued in the fresh assessment orders to be passed in term of the above directions. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

rkm

To

The Assistant Commissioner (CT),
Omalur Assessment Circle,
Omalur, Salem District.

+1cc to Mr.R.Senniappan, Advocate, S.R.No.40849
+1cc to the Special Government Pleader(T), S.R.No.40609

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RSY(CO)
CA(29/07/2016)