IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 24.2.2016.

CORAM

THE HON'BLE MR.JUSTICE V.RAMASUBRAMANIAN
AND
THE HON'BLE MR.JUSTICE N.KIRUBAKARAN

W.A.Nos.198 to 205 of 2016
and
C.M.P.Nos.2932 to 2939 of 2016

Tvl.Videocon Industries Limited,
rep. by its Senior Accounts Officer,
No.42, Thirumalai Pillai Road,
T.Nagar, Chennai 600 017. Appellant in all WAs

Vs.

The Deputy Commissioner (CT)-IV(FAC)
Large Tax Payers Unit,
No.34, Dugar Towers, 5th Floor,
Marshalls Road, Egmore,
Chennai 600 008. Respondent in all WAs

Writ Appeals against the interim order dated 25.1.206 passed in W.M.P.Nos.2086 to 2093 of 2016 in W.P.Nos.2400 to 2407 of 2016. Writ Petitions under Article 226 of the Constitution of India praying that in these circumstances stated therein and in the respective affidavits filed therewith the High Court will be pleased to issue a writ of certiorarified mandamus,

(A)(i) to call for the records of the respondent in TIN 33251522660/2007-08 dated 23.12.2015 and to quash the same as illegal, unconstitutional, arbitrary and having been passed in contrary to the provisions of Tamilnadu Value Added Tax Act, 2006 and to forthwith direct the respondent to afford a personal opportunity to the petitioner on a specified date for production of the relevant documents for perusal before passing any fresh orders in accordance with law (in WP.2400/2016);

(ii)to call for the records of the respondent in TIN 33251522660/2008-09 dated 23.12.2015 and to quash the same as illegal, unconstitutional, arbitrary and having been passed in contrary to the provisions of Tamilnadu Value Added Tax Act, 2006 and to forthwith direct the respondent to afford a personal opportunity to the petitioner on a specified date for production of the relevant documents for perusal before passing any fresh orders in accordance with law (in WP.2401/2016);

(iii)to call for the records of the respondent in TIN 33251522660/2009-10 dated 23.12.2015 and to quash the same as illegal, unconstitutional, arbitrary and having been passed in contrary to the provisions of Tamilnadu Value Added Tax Act, 2006 and to forthwith direct the respondent to afford a personal opportunity to the petitioner on a specified date for production of the relevant documents for perusal before passing any fresh orders in accordance with law (in WP.2402/2016);

(iv) to call for the records of the respondent in TIN 33251522660/2010-11 dated 23.12.2015 and to quash the same as illegal, unconstitutional, arbitrary and having been passed in contrary to the provisions of Tamilnadu Value Added Tax Act, 2006 and to forthwith direct the respondent to afford a personal opportunity to the petitioner on a specified date for production of the relevant documents for perusal before passing any fresh orders in accordance with law (in WP.2403/2016);

(v) to call for the records of the respondent in TIN 33251522660/2011-12 dated 23.12.2015 and to quash the same as illegal, unconstitutional, arbitrary and having been passed in contrary to the provisions of Tamilnadu Value Added Tax Act, 2006 and to forthwith direct the respondent to afford a personal opportunity to the petitioner on a specified date for production of the relevant documents for perusal before passing any fresh orders in accordance with law (in WP.2404/2016);

(vi) to call for the records of the respondent in TIN 33251522660/2012-13 dated 23.12.2015 and to quash the same as illegal, unconstitutional, arbitrary and having been passed in contrary to the provisions of Tamilnadu Value Added Tax Act, 2006 and to forthwith direct the respondent to afford a personal opportunity to the petitioner on a specified date for production of the relevant documents for perusal before passing any fresh orders in accordance with law (in WP.2405/2016);

(vii) to call for the records of the respondent in TIN 33251522660/2013-14 dated 23.12.2015 and to quash the same as illegal, unconstitutional, arbitrary and having been passed in contrary to the provisions of Tamilnadu Value Added Tax Act, 2006 and to forthwith direct the respondent to afford a personal opportunity to the petitioner on a specified date for production of the relevant documents for perusal before passing any fresh orders in accordance with law (in WP.2406/2016);

(viii) to call for the records of the respondent in TIN 33251522660/2014-15 dated 23.12.2015 and to quash the same as illegal, unconstitutional, arbitrary and having been passed in contrary to the provisions of Tamilnadu Value Added Tax Act, 2006 and to forthwith direct the respondent to afford a personal opportunity to the petitioner on a specified date for production of the relevant documents for perusal before passing any fresh orders in accordance with law (in WP.2407/2016) and;

(B)(i) to grant stay of all further proceedings of the respondent in pursuance of his order in TIN 33251522660/2007-08 dated 23.12.2015 (in WMP.2086/2016) pending disposal of WP.2400/2016;

(ii) to grant stay of all further proceedings of the respondent in pursuance of his order in TIN 33251522660/2008-09 dated 23.12.2015 (in WMP.2087/2016) pending disposal of WP.2401/2016;

(iii) to grant stay of all further proceedings of the respondent in pursuance of his order in TIN 33251522660/2009-10 dated 23.12.2015 (in WMP.2088/2016) pending disposal of WP.2402/2016;

(iv) to grant stay of all further proceedings of the respondent in pursuance of his order in TIN 33251522660/2010-11 dated 23.12.2015 (in WMP.2089/2016) pending disposal of WP.2403/2016;

(v) to grant stay of all further proceedings of the respondent in pursuance of his order in TIN 33251522660/2011-12 dated 23.12.2015 (in WMP.2090/2016) pending disposal of WP.2404/2016;

(vi) to grant stay of all further proceedings of the respondent in pursuance of his order in TIN 33251522660/2012-13 dated 23.12.2015 (in WMP.2091/2016) pending disposal of WP.2405/2016;

(vii) to grant stay of all further proceedings of the respondent in pursuance of his order in TIN 33251522660/2013-14 dated 23.12.2015 (in WMP.2092/2016) pending disposal of WP.2406/2016 and;

(viii) to grant stay of all further proceedings of the respondent in pursuance of his order in TIN 33251522660/2014-15 dated 23.12.2015 (in WMP.2093/2016) pending disposal of WP.2407/2016, respectively;

For appellant : Mr.Rajkumar for
Mr.A.Ravichandran

COMMON JUDGMENT

(Judgment of the Court was delivered by V.RAMASUBRAMANIAN, J. )

These writ appeals arise out of interim conditional order passed by the learned Judge while granting stay of orders of assessment.

2. Heard Mr.P.Rajkumar, learned counsel appearing for the appellant.

3. Contending that the orders of assessment for various assessment years were passed together on a single day without affording a reasonable opportunity of hearing, the appellant filed writ petitions and sought interim stay. While directing the Government Pleader to take notice, the learned Judge passed the following interim order:-

> "In view of the above, there shall be an order of interim stay on condition that the petitioner shall pay 20% of the demanded tax alone for each assessment year from 2007-08 to 2014-15 within a period of four weeks from the date of receipt of a copy of this order, failing which, the interim order granted herein shall stand vacated automatically without further reference to this court and the respondent is at liberty to proceed further to recover the demanded tax in the manner known to law. Notice."

4. Contending that the condition imposed is onerous and that in the teeth of a patent and gross violence of the principles of natural justice and there was no occasion for imposition of a condition for the grant of a stay order, the assessee has come up with the above appeals.

5. We do not think that on the above score, the writ appeals can be entertained. A discretionary interim order passed by a learned Judge cannot become the subject matter of a writ appeal. The learned Judge has directed 20% of the tax demanded alone to be paid, for the grant of interim order. This exercise of discretion does not call fr interference. Hence, the writ appeals are dismissed. It is open to the appellant to move the learned Judge for appropriate orders. No costs. The connected miscellaneous petitions are also dismissed.

ssk. -s/d-

Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

To

The Deputy Commissioner (CT)-IV(FAC)
Large Tax Payers Unit,
No.34, Dugar Towers, 5th Floor,
Marshalls Road, Egmore,
Chennai 600 008.

+ 1 cc to Spl.Govt.Pleader (Taxes) SR 11642

+ 1 cc to Mr.A.Ravichandran, Advocate Sr 11468 (25/2/16)

scd(co)
prk24/2

W.A.Nos.198 to 205 of 2016.