IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08-09-2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.28979 TO 28984 OF 2016

M/s.Arkema Peroxides India Pvt.Ltd.,
rep.by its authorised signatory. ...Petitioner in all W.Ps.

Vs.

The Assistant Commissioner (CT),
Mylapore Assessment Circle,
Chennai. ... Respondent in all W.Ps.

COMMON PRAYER : These Writ Petitions are filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the records of the Respondent in his proceedings in TIN.3200700273/2010-11, TIN.33200700273/2012-13, TIN.33200700273/2013-14, TIN.33200700273/2014-15, TIN. 33200700273/2008-09 and TIN.33200700273/2009-10 and to quash the assessment order dated 20.06.2010 made herein respectively.

For petitioner : Mr.P.V.Sudakar

For respondent : Mr.K.Venkatesh,
Government Advocate (Taxes)

COMMON ORDER

Heard Mr.P.V.Sudakar, learned counsel for the petitioner; and Mr.K.Venkatesh, learned Government Advocate, appearing for the respondent.

2. With consent on either side, the Writ Petitions are taken up for disposal. In all these Writ Petitions, the petitioner has challenged the orders of assessment made by the respondent under the provisions of the Tamil Nadu Value Added Tax Act,2006, for the years 2010-2011, 2012-2013, 2013-2014, 2014-2015, 2008-2009 and 2009-2010 respectively. The petitioner has not challenged the impugned orders on merits, but has only questioned the same on the ground of violation of principles of natural justice. The first contention raised is that the petitioner was not given an opportunity of personal hearing and, in this regard, reliance has been placed on a decision of a Hon'ble Division Bench of this Court in the case

of SRC Projects Private Ltd. v. Commissioner of Commercial Taxes, Chennai, 33 VST 333. The second ground submitted by the learned counsel for the petitioner is that the relevant original tax invoices are available with the petitioner, but the Assessing Officer did not call for the same, and, had he called for the same, the petitioner would have readily produced those invoices. With regard to the cancellation of registration of dealers is concerned, the petitioner has sought to clarify, by stating that it had given wrong TIN numbers of those dealers, but the fact remains that they are still continuing as registered dealers. With regard to the finding relating to safety equipments, the petitioner would submit that if one more opportunity is granted, it would be able to convince the assessing officer that the assessment under the said head is incorrect. In order to afford an opportunity to the petitioner, the above contentions were spelt out, while granting an order of interim stay on 19.08.2016, and the matter was directed to be listed today.

3. I have heard the learned Government Advocate on the above submissions.

4. Considering the fact that an opportunity of personal hearing was not afforded and that the petitioner is now ready and willing to produce the original tax invoices and also has given reconciliation with regard to the TIN numbers of the other end dealers and make further submissions, this Court is of the view that one more opportunity can be granted to the petitioner. Accordingly, instead of setting aside the assessment orders, the petitioner is directed to treat the impugned assessment orders as show cause notices and submit its further objections within a period of two weeks from the date of receipt of a copy of this order. On receipt of the objections, the authority shall afford an opportunity of personal hearing to the petitioner and re-do the assessment in accordance with law, withing a period of three weeks thereafter. Till such time, no coercive steps shall be taken against the petitioner for recovery of tax and penalty, as quantified in the impugned assessment orders.

5. Writ Petitions are disposed of accordingly. No costs. Consequently, the connected W.M.P.Nos.25065 to 25070 of 2016 are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

dixit

To

The Assistant Commissioner (CT),
Mylapore Assessment Circle,
Chennai.

+1cc to Mr.B.Raveendran, Advocate, S.R.No.51238
+1cc to the Special Government Pleader(T), S.R.No.51230

W.P.Nos.28979 to 28984 of 2016

RJ(CO)
CA(27/09/2016)