IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 01.09.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.29665 to 29672 of 2016 &

W.M.P.Nos.25675 to 25682 of 2016

M/s.Bharat Ceramics
Rep. by its Proprietrix,
No.35/2A, A.P.Road, Choolai,
Chennai - 600 112. .. Petitioner in all W.Ps.

Versus

The Commercial Tax Officer,
Choolai Assessment Circle,
Palaniappa Palace,
Greams Road,
Chennai - 600 006. .. Respondent in all W.Ps.

Prayer: Petitions filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus to call for records of the respondent in TIN Nos: 33961161090/2007-08, dt. 27.06.2016, 33961161090/2008-09, dt. 27.06.2016, 33961161090/2009-10, dt. 27.06.2016, 33961161090/2010-11, dt. 27.06.2016, 33961161090/2011-12, dt. 27.06.2016, 33961161090/2012-13, dt. 27.06.2016, 33961161090/2013-14, dt. 27.06.2016, 33961161090/2014-15, dt. 27.06.2016, respectively, and quash the same as illegal and against the principle of natural justice and further direct the respondent to consider the documents available with the petitioner, without being influenced by the mis-match report forwarded by the enforcement wing officials.

For Petitioner : Ms.C.Rekha Kumari
(in all W.Ps.)

For Respondent : Mrs.Vasudha Thigarajan, AGP,
(in all W.Ps.)

COMMON ORDER

Heard Ms.C.Rekha Kumari, learned counsel appearing for the petitioner, Mrs.Vasudha Thigarajan, learned Additional Government Pleader for the respondent, in all the writ petitions. By consent of the learned Counsel appearing for both sides, these Writ Petitions are taken up for final disposal.

2. Mr.S.Jayavelu, M.Com., M.B.A., Commercial Tax Officer, Choolai Assessment Circle, the Assessing Officer, of the petitioner, is present in the court today.

3. The impugned orders are questioned on the ground of violation of principles of natural justice stating that the opportunity was not granted.

4. The petitioner's case is that their Accountant, Mr.Ashwin, met the Assessing Officer, who only made a cursory perusal of the documents, but did not effectively go into the documents, but proceeded to state that the petitioner did not produce any details nor offered any explanation.

5. To ascertain the correctness of the said submission, the Assessing Officer was directed to be present in court (to assist the court). The Assessing Officer makes a definite stand that no such Accountant of the petitioner met him in order to explain the details and if he had done, there is no reason for him to record that there is No Objection. After considering the arguments of both sides and taking note of the fact that the assessment itself has been completed, ex-parte, and it appears that the issue is a recurring issue, which would arise even in future years, this court is of the view that the assessment should be redone, after providing an opportunity.

6. Accordingly, the petitioner, in all the above writ petitions, is directed to treat the impugned proceedings as show cause notices and submit their objections within a period of 15 days from the date of receipt of a copy of this order. On receipt of the objections, the respondent shall afford an opportunity of personal hearing and re-do the assessments in accordance with law.

7. With the above directions, these writ petitions are disposed of. No costs. Consequently, the connected W.M.Ps. are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

The Commercial Tax Officer,
Choolai Assessment Circle,
Palaniappa Palace,
Greams Road,
Chennai - 600 006.

+1 cc to Mr.C.Rekha Kumari Advocate sr 50059
+1 cc to Special Government Pleader Taxes sr 50152

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