

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.09.2016

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

WP.Nos.32424 to 32428 of 2016
& WMP.Nos.28126 to 21835 of 2016

M/s.Modern Ceramics
rep.by its Partner Vinaykumar Jain
No.86, Sangu Nagar, Palayapalayam
Erode 638011, Erode District.

... Petitioner in
all the Writ Petitions

...Vs...

The Assistant Commissioner [CT]
Erode [Rural], Erode,
Erode District.

... Respondent in
all the Writ Petitions

Writ Petitions filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records on the file of the respondent in its impugned proceedings made in TIN Nos.33382902656/2010-2011 ; 33382902656/2011-2012 ; 33382902656/2012-2013 ; 33382902656/2013-2014 and 33382902656/2014-2015 dated 12.02.2016 and quash the same as illegal and against the provisions of the Act.

For Petitioner in : Mr.S.Rajasekar
all writ petitions

For Respondent in : Mr.K.Venkatesh
all writ petitions Government Advocate [Taxes]

COMMON ORDER

Heard Mr.S.Rajasekar, learned counsel for the petitioner and Mr.K.Venkatesh, learned Government Advocate [Taxes] accepting notice on behalf of the respondent. By consent, the Writ Petitions itself are taken up for final disposal.

2. The petitioner is a dealer in Ceramic Tiles and Ceramic Sanitary Wares at Erode and is an assessee on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006. The petitioner has filed the above writ petitions challenging the order of assessment passed under the TNVAT Act, 2006 for the years 2010-2011 to 2014-2015. Pursuant to a surprise inspection conducted in the place of business of the petitioner on 22.06.2015 by the Enforcement Wing Officials, certain defects were pointed out and based on such report, the respondent issued pre-revision notice on 13.11.2015. It is not in dispute that the petitioner received the notice and they were granted fifteen days time to submit their reply. The petitioner submitted a letter dated 10.12.2015 requesting for thirty days time. This letter has been received by the respondent. But, the respondent has not subsequently passed an order either rejecting or accepting the request of the petitioner for grant of 30 days time. Nevertheless, the respondent appears to have waited for some time and passed the impugned orders on 12.02.2016. Though the respondent cannot be fully faulted, yet when a request for grant of time or an adjournment is sought for by a written communication, then the Assessing Officer should intimate the dealer in writing, stating that whether his request has been accepted in full or partially or rejected in toto. In other words, the petitioner seeks for 30 days time and if the Assessing Officer is of the opinion that 30 days time is not required to be granted as already sufficient time had lapsed, then he can grant or reject the request in toto and communicate the same to the petitioner or can grant a reasonable time and intimate the dealer that within the said time, if he does not file the objections/reply or does not appear in person, an ex parte proceedings would be initiated. It is pointed out by the learned counsel for the petitioner that there is already a Circular issued by the Commissioner to the said effect. However, in the instant case, the respondent has neither accepted nor rejected the petitioner's request for the adjournment ; but appears to have waited for some time and passed the impugned orders.

3. Considering the peculiar facts and circumstances of the case, this Court is inclined to grant one more opportunity to the petitioner. Accordingly, the petitioner is directed to treat the impugned proceedings as a show cause notice and submit their objections/reply within a period of fifteen days from the date of receipt of a copy of this order and on receipt of such objections/reply, the respondent shall afford an opportunity of personal hearing to the petitioner and re-do the assessment for the Assessment Years 2010-2011 to 2014-2015, on merits and in accordance with law.

4. The Writ Petitions are disposed of on the above terms.
No costs. Consequently, the connected miscellaneous petitions
are closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

AP

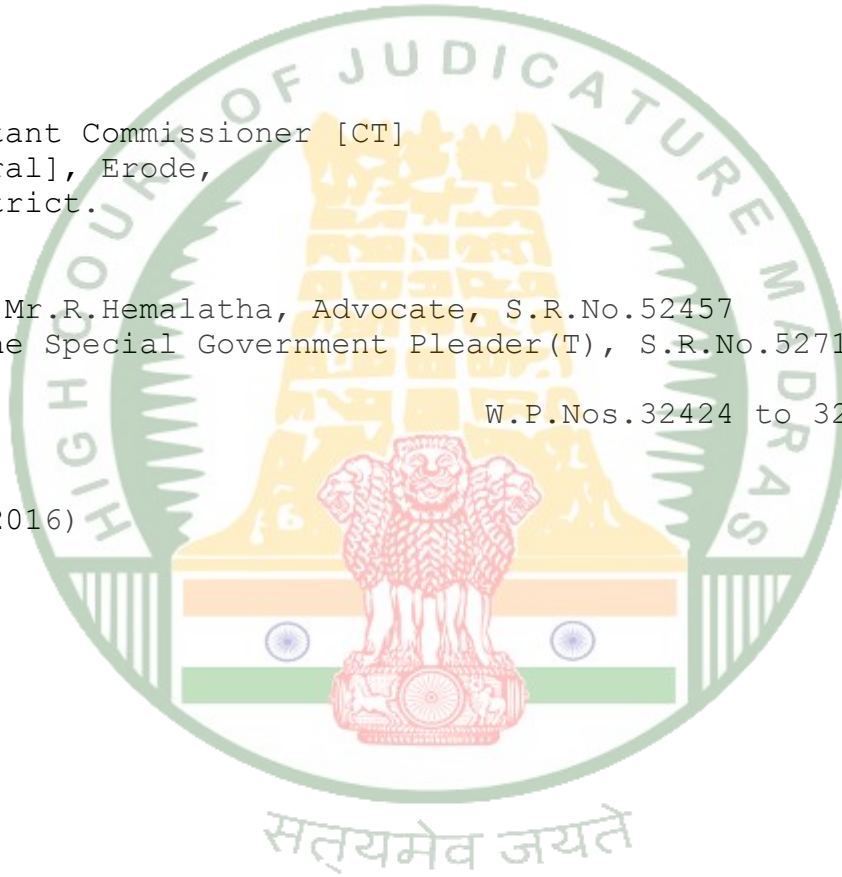
To

The Assistant Commissioner [CT]
Erode [Rural], Erode,
Erode District.

+5cc's to Mr.R.Hemalatha, Advocate, S.R.No.52457
+1cc to the Special Government Pleader(T), S.R.No.52712

W.P.Nos.32424 to 32428 of 2016

PA(CO)
CA(04/10/2016)



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