In the High Court of Judicature at Madras

Dated : 26.9.2016

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.33662 to 33664 of 2016
& WMP.Nos.29040 to 29042 of 2016

M/s.Industrial Refractories,
rep. by its Proprietor ...Petitioner

Vs

The Assistant Commissioner (CT)
(FAC), Virudhachalam,
Junction Road, Virudhachalam-1. ...Respondent

PETITIONS under Article 226 of The Constitution of India praying for the issuance of a Writs of Certiorari to call for the records of the respondent in his proceedings in TIN : 3331442312/2011-12, TIN : 3331442312/2012-13 and TIN : 3331442312/2013-14 and quash the assessment orders respectively dated 12.2.2015, 27.2.2015 and 27.2.2015 made therein.

For Petitioner : Mr.P.V.Sudakar
For Respondent : Mr.S.Kanmani Annamalai, AGP

COMMON ORDER

Mr.S.Kanmani Annamalai, learned Additional Government Pleader takes notice for the respondent. Heard both. By consent, the writ petitions are taken up for joint disposal.

2. In these writ petitions, the petitioner challenges the assessment

orders under the provisions of the Tamil Nadu Value Added Tax Act, 2006 for the years 2011-12 to 2013-14.

3. The admitted facts are that the petitioner, who was initially carrying on business within the jurisdiction of the respondent, had stopped business. They surrendered their registration and the tax payer identification number allotted to the petitioner was cancelled with effect from 1.1.2012.

4. The petitioner has now established a trading unit at Coimbatore and it appears that they effected supply to M/s.Larsen & Tourbo. On verification of the Departmental Website, the respondent appears to have found the transaction done by the petitioner with the earlier tax payer identification number allotted by the office of the respondent.

5. Therefore, pre-revision notices were issued dated 26.8.2014 and admittedly, such notices were not communicated to the petitioner's present place of business, which is at Coimbatore. Ultimately, the notices were not served and the respondent completed the assessments ex parte. Thereafter, the bank account of the petitioner, maintained at Tamilnadu Mercantile Bank, Virudhachalam, was attached whereas the said bank account had already been closed.

6. On coming to know from the bank about the initiation of the proceedings by the respondent, the petitioner applied for certified copies of assessment orders and challenged the same. In the meantime, M/s.Larsen & Toubro also addressed a letter to the respondent on 1.3.2016 stating that the petitioner has been supplying refractory bricks from the unit, which is

registered at Coimbatore and that however, due to a clerical mistake, in their returns, they had mentioned the earlier tax payer identification number of the petitioner, which was given in respect of Virudhachalam address.

7. In spite of this proceeding, it appears that the respondent has not taken any action. Therefore, this is a fit case where the assessments should be redone, especially when the respondent himself admitted in the impugned order that the petitioner stopped business at Virudhachalam and the registration was cancelled with effect from 1.1.2012.

8. Accordingly, the writ petitions are disposed of directing the petitioner to treat the impugned proceedings as show cause notices, produce details including the letter from M/s.Larsen & Toubro and their returns filed before the Assistant Commissioner (CT), Coimbatore, within a period of 15 days from the date of receipt of a copy of this order and after considering the details, the respondent shall redo the assessments in accordance with law after affording personal hearing. No costs. Consequently, the above WMPs are closed.

26.9.2016

Internet : Yes

To
The Assistant Commissioner (CT) (FAC), Virudhachalam, Junction Road, Virudhachalam-1.

RS

<u>T.S.SIVAGNANAM,J</u>
RS

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