IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 13.07.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.33506, 33861 and 33862 of 2004
W.M.P.Nos.33506, 40949 & 40951 of 2004

Tvl.Ess Gee Caterers ... Petitioner in all W.Ps.

Vs

The Commercial Tax Officer
Royapuram Assessment Circle
Chennai. ... Respondent in all W.Ps.

Common Prayer: The Writ Petitions are filed under Article 226 of the Constitution of India, seeking for a Writ of certiorari to call for the records on the files of the respondent herein in TNGST/1181338/2001-2002, TNGST/1181338/1999-2000 & TNGST/1181338/2000-2001 dated 27.09.2004 and quash the same as illegal, unlawful and unconstitutional.

For Petitioner : Mr.A.Ravichandran

For Respondent : Mr.S.Kanmani Annamalai
Additional Government Pleader

C O M M O N O R D E R

Heard Mr.A.Ravichandran , learned Counsel appearing for the petitioner and Mr.S.Kanmani Annamalai, learned additional Government Pleader appearing on behalf of the respondent and with the consent of learned counsel appearing on either side, these Writ Petitions are taken up for final disposal.

2.The petitioner who is a registered dealer under the provisions of the erstwhile Tamil Nadu General Sales tax Act, 1959 (TNGST Act), has filed these Writ Petitions, challenging the orders of assessment passed by the Assessing Officer for the years 1999-2000, 2000-2001 & 2001-2002.

3.The only ground on which the petitioner has approached this Court is by contending that though the Assessing Officer granted time to produce the purchase bills, the time was insufficient, since only seven days was granted and the time expired on 23.09.2004 and on 27.09.2014 the assessments were completed and the impugned orders were passed.

4.It is submitted by that the petitioner is a Catering Establishment dealing with large Companies such as Ashok Leyland, etc., and therefore, the time of seven days was totally inadequate for the petitioner to produce the purchase bills. The case of the petitioner is that they personally approached the respondent to grant some more time to submit the purchase bills. However, this contention is neither substantiated by any records or an averment in the affidavits filed in support of the Writ Petitions.

5.Be that as it may, the Writ Petitions were filed in the year 2004, interim orders were obtained by the petitioner and though the respondent has been served and entered appearance through counsel, no counter affidavit has been filed nor the respondent has given any written instructions to the learned Additional Government Pleader, representing the respondent.

6.Therefore, this Court is of the view that one more opportunity could be granted to the petitioner to produce the purchase bills as they have stated that they have got all the purchase bills.

7.In the light of the above, the Writ Petitions are allowed, the assessment orders are quashed and the matter is remanded to the respondent for fresh consideration. The petitioner is directed to produce the purchase bills before the respondent, within a period of fifteen days from the date of receipt of a copy of this order. On receipt of the same, the respondent shall afford an opportunity of personal hearing to the petitioner and proceed to complete the assessment afresh, in accordance with law. No costs. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

Rpa

To

The Commercial Tax Officer
Royapuram Assessment Circle
Chennai.

+2cc's to Mr.A.Ravichandran, Advocate, S.R.Nos.39474 & 39475
+1cc to the Special Government Pleader(T), S.R.No.39300

W.P.Nos.33506, 33861 & 33862 of 2004

BVR(CO)
CA(02/08/2016)