IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

Writ Petition Nos.39438 to 39441 of 2016
and
W.M.P.Nos.33719 to 33726 of 2016

D.R.Cotton Mill .. Petitioner in all cases
rep by its Proprietor
R. Prithamsingh

- Vs -

The Assistant Commissioner (CT),
Chithode Assessment Circle,
Erode. .. Respondent in all cases

Prayer in all the WPs:- Writ petitions filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari calling for the records on the files of the respondent in CST.No.1117893/2014-15 dated 30.09.2015, CST.No.1117893/2013-14 dated 30.09.2015, TIN.33443065971/2014-15 dated 30.09.2015 and TIN.33443065971/2013-14 dated 30.09.2015 respectively and quash the same as being without jurisdiction and authority of law and contrary to the principles of natural justice and that of the principle laid down by this Hon'ble Court in the judgment reported in (2007) 295 ITR 303 (Mad) (V.Selladurai Vs. Chief Commissioner of Income-Tax (OSD) and another) and 1995 (8) M.T.C.R. 55 M/s.Rajan Offset Printers, Madras -1 Vs. The Commercial Tax Officer, Mannady East Assessment Circle, Madras.

For Petitioner : Mr.R.Senniappan

For Respondent : Mr.Kanmani Annamalai
Additional Government Pleader (Taxes)

C O M M O N O R D E R

The prayer in the Writ Petitions is for a writ of Certiorari to call for the records pertaining to the impugned proceedings of the respondent in CST.No.1117893/2014-15 dated 30.09.2015, CST.No.1117893/2013-14 dated 30.09.2015, TIN.33443065971/2014-15 dated 30.09.2015 and TIN.33443065971/2013-14 dated 30.09.2015 respectively and quash the same.

2. Mr.Kanmani Annamalai, learned Additional Government

Pleader (Taxes) takes notice for the respondent.

3. By consent, the writ petitions are taken up for final disposal.

4. The only ground which has been raised is that as per Section 22(4) of the TNVAT Act, the petitioner has not been given a mandatory personal hearing by the respondent. Therefore, the petitioner contends that there is a violation of principles of natural justice under Section 33 of the VST Act and seeks for setting aside of the impugned orders.

5. He would also contend the contention of the respondent that the notice sent to him was returned, he would state that further steps in accordance with Rule 19(1)(3) has not been followed. On that score also he seeks for setting aside of the impugned orders.

6. Be that as it may, the petitioner is prepared to deposit 15% of the tax amount. The respondent would contend that the order has been passed on 30.09.2015.

7. Taking into consideration the fact that the petitioner has not been given a personal hearing which is mandatory under Section 22(4) of the TNVAT Act, 2006, the orders passed by the respondent in CST.No.1117893/2014-15 dated 30.09.2015, CST.No.1117893/2013-14 dated 30.09.2015, TIN.33443065971/2014-15 dated 30.09.2015 and TIN.33443065971/2013-14 dated 30.09.2015 respectively are set aside and the petitioner, to show his bona fide has agreed to pay 15% of the tax amount, within a period of six weeks from the date of receipt of a copy of this order. On such deposit made by the petitioner, the matter is remitted back to the authority concerned and the authority shall give an opportunity of hearing to the petitioner and thereafter pass appropriate orders on merits and in accordance with law.

8. Accordingly, these writ petitions are allowed. No costs. Consequently, the connected Miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

kk

To

The Assistant Commissioner (CT),
Chithode Assessment Circle,
Erode.

1 cc to Mr.R. Senniappan, Advocate, Sr. 65082
1 cc to Government Pleader, Sr. 65178

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MSM (CO)
kk 29/12