In the High Court of Judicature at Madras

Dated: 21.12.2016

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The Honourable Mr.JUSTICE RAJIV SHAKDHER

Writ Petition Nos.43671 to 43678 of 2016
and WMP Nos.37483 to 37490 of 2016

Schuttee Meyer India Private Ltd.,
represented by its Director
S.Govarthanan

.... Petitioner in the above W.P.s

Vs.

The Assistant Commissioner (CT)
Thudidyalur Circle,
Coimbatore.

.... Respondent in the above W.Ps.

PETITIONs under Article 226 of The Constitution of India praying for the issuance of Writ of Certiorari calling for the records on the files of the respondent herein in TIN:33592023575/2007-2008 to 2014-2015, dated 08.11.2016, quashing the same.

For Petitioner : Mr.N.Prasad
For Respondents: Mr.K.Venkatesh, G.A.

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C OM M O N O R D E R

1. Mr.K.Venkatesh, who accepts notice for the respondent, has returned with the instruction in the matter.

2. Mr.K.Venkatesh confirms that the impugned order was passed by an officer other than the one, who had given a personal hearing in the matter.

3. At the time of issuing notice, i.e., on 20.12.2016, I had, inter alia, recorded the broad grounds of challenge raised by the petitioner. In order to avoid prolixity, the relevant extract of the order dated 20.12.2016 is set out herein below:

> "1. Issue notice. Mr.K.Venkatesh, accepts notice on behalf of the respondent.
>
> 2. To be noted, the impugned order is assailed by the petitioner on three principal grounds.

First, that, the petitioner was granted hearing by one Officer, while the order has been passed by another Officer. Second, that, ITC has been reversed on the ground that the vendors had not paid the tax. Third, that, in the calculation of the penalty amount, the base figure of Rs.9,21,541/- has been taken into account, which, as a matter of fact should have been adjusted for the amount of ITC reversed in the matter.

3. To be noted, the amount of ITC, which was reversed in this case is a sum of Rs.4,63,777/-."

4. In view of what has been put forth by Mr.K.Venkatesh, at least the first ground of challenge is clearly made out, which is that, the impugned order has been passed by an officer other than one, who had granted hearing in the matter.

5. In these circumstances, the eight (8) impugned orders of even date, i.e., 08.11.2016 are set aside with liberty to the respondent to redo the assessment after giving due opportunity to the petitioner.

6. The Writ Petitions are, accordingly, disposed of leaving the parties to bear the costs. Consequently, connected Miscellaneous Petitions stand closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To
The Assistant Commissioner (CT)
Thudidyalur Circle,
Coimbatore.

+1 cc to Special Government sr 74668
+1 cc to Mr.N.Inbarajan Advocate sr 74556

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