IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.09.2017

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.10555 of 2017 & W.M.P.No.11474 of 2017

Fives Cail-KCP Limited,
Rep. by its Managing Director,
Ramakrishna Building,
No.2, Dr.P.V.CherianCresent,
Egmore, Chennai-600 008. ... Petitioner

Vs.

The Commercial Tax Officer,
Egmore Assessment Circle,
Taluk Office, Spur Tank Road,
Chennai-600 031 ... Respondent

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the entire records of the respondent impugned order of assessment made in CST 652583/2012-13 dated 12.04.2017 and quash the same as illegal and unconstitutional and also to direct the respondent to grant an opportunity of personal hearing to the petitioner as provided under Section 27 of the TNVAT Act, 2006 to produce their books of accounts and to verify the same before passing fresh orders of assessment.

For Petitioner : Mr.L.Murali

For Respondent : Mr.K.Venkatesh, Government Advocate



O R D E R

Heard Mr.L.Murali, learned counsel for the petitioner and Mr.K.Venkatesh, learned Government Advocate for the respondent. With the consent on either side, this writ petition is taken up for final disposal.

2.The petitioner is a registered dealer on the file of the respondent, dealing in capital goods and registered under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (in short "TNVAT Act") and under the provisions of the Central Sales Tax Act, 1956 (in short "CST Act"). In this writ petition, the petitioner has challenged the revision of assessment made under the provisions of the CST Act for the assessment year 2012-13.

3.The petitioner's grievance appears to be that Form 'E1' and 'C' Form Declarations, which were produced by the petitioner, have not been considered. The learned counsel for the respondent, on written instructions from the Assessing Officer, submitted that though the office of the respondent had received bunch of 'E1' and C Forms, they were placed before the Assessing Officer only after passing the impugned assessment order and whatever forms which are available, the Assessing Officer is ready to re-consider.

4.In the light of the same, the writ petition is partly allowed and the impugned order assessing the petitioner at higher rate of tax in the absence of 'E1' and 'C' Forms is hereby set aside and the matter is remanded to the respondent for fresh consideration.

5.The respondent is directed to afford an opportunity of personal hearing to the petitioner's authorized representative, taking into consideration 'E1' Forms and 'C' Forms that are already in the custody of the respondent and the Forms which the petitioner may produce at the time of personal hearing and re-do the assessment to the said extent in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

abr

To

The Commercial Tax Officer,
Egmore Assessment Circle,
Taluk Office, Spur Tank Road,
Chennai-600 031.

+1 cc to Mr.N.Naganasthan Advocate sr 67177

W.P.No.10555 of 2017

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