IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 05.07.2017

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.10702 to 10706 of 2017

& M.P.Nos.11654 to 11658 of 2017

Tvl.Gowtham Constructions,
Rep. By its Managing Partner,
Mr.M.Pachiannan ... Petitioner in all W.Ps'

Versus

The Assistant Commissioner (CT),
Omalur Assessment Circle,
Omalur, Salem District. ... Respondent in all W.Ps'

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari calling for the records on the file of the respondent in TIN.33523244407/2011-12, 2012-13, 2013-14, 2014-15 and 2015-2016 respectively dated 27.02.2017 and quash the same as being contrary to the principle laid down by this Court in the judgment reported in (2007) 295 ITR 303 (Mad) (V.Selladurai Vs. Chief Commissioner of Income-Tax (OSD) and another).

For Petitioner : Mr.R.Senniappan

For Respondent : Mr.K.Venkatesh
Government Advocate



COMMON ORDER

Heard Mr.R.Senniappan, learned counsel appearing for the petitioner and Mr.K.Venkatesh, learned Government Advocate appearing for the respondent.



2. The petitioner, who is registered contractor of the Public Works Department and a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006, has filed these Writ Petitions, challenging the order of assessment for the years 2012-13 to 2015-2016.

3. Two grounds have been raised by the learned counsel for the petitioner. First is that the impugned order has been passed without affording an opportunity of personal hearing. In support of his contention, reliance has been placed on the decision of the Hon'ble Division Bench of this Court in the case of V.Selladurai Vs. Chief Commissioner of Income Tax (OSD) and another [(2007) 295 ITR 303].

4. The second ground raised by the learned counsel for the petitioner is that though the petitioner had filed monthly returns and also paid tax, the respondent erroneously observed in the impugned orders that no monthly returns have been filed and that the petitioner has not reported the turnover liable to tax.

5. In the light of the fact that the petitioner has not been afforded an opportunity of personal hearing as mandated and as pointed out by the Hon'ble Division Bench in the above referred to decision, this Court is of the view that the matter should be decided afresh after due opportunity to the petitioner.

6. Accordingly, the Writ Petitions are allowed, the impugned orders are set aside and the matters are remitted back to the respondent for fresh consideration. The respondent is directed to afford an opportunity of personal hearing to the petitioner. While doing so, the respondent shall verify as to the correctness of the submissions made by the petitioner that they filed Returns and paid taxes. The respondent can call for the entire files relating to the petitioner and thereafter proceed in accordance with law. The petitioner is at liberty to exercise their option under Section 6 of the said Act, which shall also be considered on merits and in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.



Sd/-
Assistant Registrar(CS IV)



//True Copy//

Sub Assistant Registrar

Vsm
To

The Assistant Commissioner (CT),
Omalur Assessment Circle,
Omalur.

+1cc to M/S.R.Senniappan, Advocate Sr.47557
+1cc to the Special Government Pleader Sr.46806

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