IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.09.2017

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.10810, 11065 & 11066 of 2017 &
W.M.P.Nos.11750, 12009 & 12010 of 2017

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

Vs.

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

Petitions 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 652583/2009-10, 2010-11, 2011-12 respectively, 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

C O M M O N   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, these writ petitions are 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 these writ petitions, the petitioner has challenged the revision of assessment made under the provisions of the CST Act for the assessment years 2009-10, 2010-11 & 2011-12.

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 petitions are partly allowed and the impugned orders assessing the petitioner at higher rate of tax in the absence of 'E1' and 'C' Forms are 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, take 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 petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

abr

To

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

+3cc to Mr.N.Naganathan, Advocate sr.66484 to 66486

+1cc to Special Government Pleader (Taxes) sr.66730

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ss(5/10/2017)