IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.05.2017

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.A.Nos.567 to 569 of 2017
and
W.M.P.Nos.8084 to 8088 of 2017

Tvl. Ashvar Builders and Promoters
Rep. by its Proprietor
T.Soundararajan
No.5/2 JAI NAGAR 6TH ST
Arumpakkam Chennai-106. ... Appellant in all WAs

Vs

1. The Comemrcial Tax Officer
   Vadapalani Assessment Circle
   Commercial Taxes Complex
   No.1 CT Annexe Building
   Greams Road Chennai-6.

2. The Assistant Commissioner (CT)
   Vadapalani Assessment Circle
   No.1 Greams Road Chennai-6. ... Respondents in all WAs

Prayer : Writ Appeals filed under Section 15 of the Letters Patent to set aside the order of the court in WP.No.8889 to 8891 of 2017 dated 12/4/2017 in so far as the direction to make payment of 25% of the tax demanded for the year 2012-13, 2013-14 and 2014-15 respectively is concerned.

W.P.Nos.8889 to 8891 of 2017 : Writ Petitions filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for records pertaining to the impugned proceedings of the First Respondent in

1. TIN.33241466066/2012-13,
2. TIN.33241466066/2013-14 and
3. TIN.33241466066/2014-15

dated 28.11.2016 respectively and consequential impugned pre-attachment order of the Second Respondent dated 28.03.2017 and quash the same and consequently direct the respondent to redo the assessment afresh after giving adequate opportunity to the Petitioner.

For Appellant : Mr.R.Senniappan

For Respondents : Mr.S.Kanmani Annamalai, Additional Government Pleader(T)

COMMON JUDGMENT

Judgment of the Court was made by S.M.SUBRAMANIAM,J)

Heard Mr.R.Senniappan, learned counsel for the appellant and Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Taxes) for the respondents.

2. When the matters are taken up for hearing, both the learned counsel for the appellant as well as the learned Additional Government Pleader appearing for the respondents submitted that the issue raised in these writ appeals is covered by a Judgment rendered by a Division Bench of this Court in W.A.Nos.211 to 218 of 2015 dated 29.01.2015.

3. At this juncture, it is useful to extract below the above said Judgment rendered by this Court dated 29.01.2015 in W.A.Nos.211 to 218 of 2015:

> " 2. The appellant had filed writ petitions being W.P.Nos.17653 to 17660 of 2014 for quashing the assessment order dated 07.06.2014 passed by the respondent. The Writ Court, while setting aside the impugned order, had directed the appellant to deposit 5% of the tax amount in each case, as volunteered by them, on or before 16.08.2014 and also permitted to file its objection within a period of fifteen days, and thereafter, the respondent/authority was given liberty to pass orders on merits.
>
> 3. The only contention raised by the learned counsel for the appellant before us is that once the writ petition has been allowed and the appellant is permitted to file its objections before the authority concerned and also, the respondent is directed to pass orders, there is no justification on the part of the Writ Court in giving a direction for making a deposit of 5% of the tax amount inasmuch as the question of making any deposit or payment would arise only after fresh assessment is made.
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> 4. In our considered view, the aforesaid submission of the learned counsel for the appellant is justified.

Accordingly, the direction issued by the Writ Court regarding deposit of 5% of the tax amount is set aside. However, as per the order of the Writ Court, the appellant shall file its objection along with documents, if any, before the respondent within a period of two weeks and on receipt of the same, the respondent is directed to consider the same independently and after giving opportunity of hearing, shall pass orders afresh, on merits and in accordance with law, as expeditiously as possible and not later than four weeks from the date of receipt of the objections.

These appeals are allowed to the extent indicated above. Consequently, connected miscellaneous petitions are closed. No costs.".

4. Since the issue raised in these Writ Appeals are covered by the above cited Judgment of this Court, following the same, the direction issued by the learned Single Judge regarding deposit of 25% of the tax demanded for each of the assessment years is set aside. However, as per the said order, the appellant shall file its objection along with documents, if any, before the respondents within a period of two weeks and on receipt of the same, the respondents are directed to consider the same independently and after giving opportunity of hearing, shall pass orders afresh, on merits and in accordance with law, as expeditiously as possible and not later than four weeks from the date of receipt of the objections.

The Writ Appeals are allowed to the extent indicated above. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(V.O)

//True Copy//

Sub Assistant Registrar

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To

1. The Comemrcial Tax Officer
Vadapalani Assessment Circle
Commercial Taxes Complex
No.1 CT Annexe Building
Greams Road Chennai-6.

2. The Assistant Commissioner(CT)
   Vadapalani Assessment Circle
   No.1 Greams Road Chennai-6.

+1cc to Mr.R.Senniappan, Advocate, S.R.No.37197
+1cc to the Special Government Pleader(T), S.R.No.37272

W.A.Nos.567 to 569 of 2017

PPA(CO)
CA(22/05/2017)