IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2017

CORAM:

The Hon'ble Mr.Justice T.S.Sivagnanam

W.P.Nos.12964 to 12967 of 2017
and
W.M.P.Nos.13834 to 13837 of 2017

Bonfiglioli Transmissions Private Limited
Represented by its Head Commercial Mr.T.K.Ravi,
Plot No.AC7-AC 11, Sidco Industrial Estate,
Chennai – 600 044.

.. Petitioner in all W.Ps.

Vs.

Assistant Commissioner (CT)
Thirumudivakkam Assessment Circle,
Nos. 32 & 33, Sripuram, 2nd Street,
Chrompet,
Chennai – 600 044.

.. Respondent in all W.Ps.

Common Prayer :

Writ Petitions filed under Article 226 of the Constitution of India, praying for the issuance of writ of certiorari to call for the records in the proceedings of the respondent in CST No.772273/2011-12, 2012-13, 2013-14, 2014-15 respectively, all dated 28.02.2017, issued by the respondent and quash the same as arbitrary and illegal.

For Petitioner	..	Mr.Joseph Prabakar
For Respondents	..	Mr.S.Kanmani Annamalai Addl, Government Pleader (Tax)

C O M M O N ORDER

Heard Mr.Joseph Prabakar, the learned counsel appearing for the petitioner, and Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Tax), accepting notice on behalf of the respondents. With 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, under the provisions of Tamil Nadu Value Added Tax Act, 2006 (TNVAT Act) and Central Sales Tax Act, 1956 (CST Act), and the orders impugned in these Writ Petitions are orders of assessment issued under the provisions of the CST Act for the years 2011-12, 2012-13, 2013-14 and 2014-15. It appears that, there were other orders passed by the very same Assessing Officer, in respect of the petitioner herein on the very same day, i.e., on 28.02.2017, under the provisions of the TNVAT Act.

3. The primary ground on which, the assessment orders have been challenged is on the ground of violation of principles of natural justice. Though there may be slight variation in respect of the each of the case as regards as to how the principles of natural justice has been violated, but, the common ground raised in all the Writ Petitions is one and the same. An identical contention was raised by the petitioner in respect of the very same assessment years made under the provisions of TNVAT Act, in W.P.Nos.12980 of 12985 of 2017, and the said Writ Petitions were allowed and the impugned orders were set aside with a direction to afford opportunity of personal hearing to the petitioner and proceed afresh. In the instant case, on going through the facts and circumstances of the case, and the observations made by the Assessing Officer in the impugned assessment orders, it is evidently clear that the petitioner did not have effective and sufficient opportunity to putforth their contention. This is sufficient to hold that the impugned orders are bad in law.

4. For the above reasons, all these Writ Petitions are allowed, and the impugned orders are set aside and the matters are remanded to the respondent for fresh consideration. The petitioner is granted 15 days' time from the date of receipt of a copy of this order to submit their objections along with supportive document, and on receipt of the objections, the respondent shall afford an opportunity of personal hearing to the petitioner and shall redo the assessment in accordance with law. Simultaneously, in respect of the assessments made under the TNVAT Act, 2006, which were set aside by order, dated 25.05.2017 in W.P.Nos.12980 of 12985 of 2017 also, shall be redone as per the direction issued by this Court after affording opportunity to the petitioner.

5. In the result, all the Writ Petitions are allowed, as indicated above. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

at/sd

To

Assistant Commissioner (CT)
Thirumudivakkam Assessment Circle,
No 32 & 33, Sripuram, 2nd Street,
Chrompet,
Chennai - 600 044.

+1cc to M/S.Joseph Prabakar, Advocate Sr. 49206
+1cc to Special Government Pleader, (Taxes) Sr. 49443

W.P.Nos.12964 to 12967 of 2017

RSK(CO)
VR(03/08/2017)