IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2017

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.Nos.16539 to 16544 of 2017
and
W.M.P.Nos.17895 to 17900 of 2017

Asian Granito (India) Ltd.,
(Represented by its authorized representative)
No.1/5, Chettiar Agaram Road,
Sivabootham Village,
Chennai - 600 095. ...Petitioner in all W.Ps.

.. Vs ..

1. Assistant Commissioner (CT),
   Nolambur assessment circle,
   No.176-B, M.T.H.Road,
   Villivakkam, Chennai - 600 049.

2. Assistant Commissioner (CT),
   Central Enforcement Wing-II,
   Enforcement-II, Greams Road,
   Chennai - 600 006.

3. Commissioner of Commercial Taxes,
   Chepauk, Chennai - 600 005.

4. Government of Tamil Nadu,
   Represented by its Secretary,
   Commercial Taxes Department
   Fort St.George, Chennai - 600 009.

...Respondents in all W.Ps.

Prayer in all W.Ps.: Petitions filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records relating to the Impugned Order passed by the first respondent in CST:792082/2010-11, CST:792082/2011-12, CST:792082/2012-13, CST:792082/2013-14, CST:792082/2014-15 and CST:792082/2015-16 respectively dated 06.04.2017 and quash the same.

In all W.Ps.

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

COMMON ORDER

The above writ petitions are filed challenging the impugned orders dated 06.04.2017 passed by the first respondent in CST:792082/2010-11, CST:792082/2011-12, CST:792082/2012-13, CST:792082/2013-14, CST:792082/2014-15 and CST:792082/2015-16 respectively and quash the same.

2. It is the case of the petitioner that the petitioner company is engaged in the business of manufacture and trading of tiles and marbles. They are registered under the Tamil Nadu Value Added Tax Act (hereinafter shortly referred to as 'TNVAT Act') and the Central Sales Tax Act, 1956 (hereinafter shortly referred to as 'CST Act'). It is the further case of the petitioner that for the Assessment years 2010-11 to 2014-15 orders were passed by the first respondent under the CST Act, completing assessments after verification of 'C' Forms filed by the petitioner between 31.01.2014 and 26.02.2016. While so, the Enforcement Wing officials visited the premises of the petitioner company between 31.10.2016 to 03.11.2016 to conduct a surprise inspection. Consequently, notices dated 10.02.2017 came to be issued by the first respondent, pointing out certain defects and proposing to levy tax and penalty on the petitioner company. Pursuant to the same, the petitioner company approached the first respondent and sought time for filing its reply along with supporting documents. Without considering the said request and without providing an opportunity of personal hearing to the petitioner company, the first respondent passed assessment orders dated 06.04.2017 in respect of the assessment years from 2010-11 to 2015-16, confirming the proposal of levying tax and penalty. Aggrieved over the same, the petitioner company is before this Court with the present petitions.

3. Learned counsel for the petitioner submitted that without providing an opportunity to the petitioner, the impugned orders came to be passed by the first respondent, which is arbitrary, illegal and against the principles of natural justice and hence, he prayed for quashing the same.

4. Mr.S.Kanmani Annamalai, learned Additional Government Pleader, (Taxes), who took notice for the respondents, fairly submitted that no opportunity of personal hearing was provided to the petitioner before passing the impugned orders.

5. Heard both sides and perused the records.

6. Admittedly, the petitioner company was neither granted sufficient time for filing its objection nor provided an opportunity of personal hearing before passing the orders impugned herein. Learned Additional Government Pleader appearing for the respondents also fairly conceded the same. On this score alone, the impugned orders are liable to be quashed.

7. In the result, all the writ petitions are allowed and the impugned orders dated 06.04.2017 passed by the first respondent in respect of the assessment years from 2010-11 to 2015-16 are set aside. The petitioner company is directed to file its objection by way of reply along with supporting documents within a period of three weeks from the date of receipt of a copy of this order. On filing such reply, the first respondent is directed to consider the same and pass appropriate orders, on merits and in accordance with law, after affording an opportunity of personal hearing to the petitioner company, as expeditiously as possible. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

Jrl

To

1. Assistant Commissioner (CT),
   Nolambur assessment circle,
   No.176-B, M.T.H.Road,
   Villivakkam, Chennai - 600 049.

2. Assistant Commissioner (CT),
   Central Enforcement Wing-II,
   Enforcement-II, Greams Road,
   Chennai - 600 006.

3. Commissioner of Commercial Taxes,
   Chepauk, Chennai - 600 005.

4. The Secretary,
Government of Tamil Nadu,
Commercial Taxes Department
Fort St.George, Chennai - 600 009.

+6ccs to Mr.Lakshmi Kumaran, Advocate Sr. 45596
+1cc to the Special Government Pleader Sr. 46171

W.P.Nos.16539 to 16544/2017

AR(IV)
VR(24/07/2017)