IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2017

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THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER

W.P.No2852 to 2855 of 2017
and
W.M.P.No2774 to 2777 of 2017

M/s.Sony India (P) Ltd
Represented herein by its
Branch Commercial Manager/Authorised Signatory
Mr.S.Balaji ... Petitioner in all the W.Ps.

Vs.

The Deputy Commissioner (CT) - I
LTU Assessment Circle (Large Tax Payer Unit)
5th Floor, Dugar Towers
No.34, Marshall Road, Egmore
Chennai - 600 008. ... Respondent in all the W.Ps.

Common Prayer:

Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the respondent in the impugned order in TIN No.33650461357/ 2008-09, TIN No.33650461357/ 2015-16, TIN No.33650461357/ 2014-15 and TIN No.33650461357/ 2012-13 respectively, dated 27.12.2016, 23.12.2016, 23.12.2016 and 27.12.2016 respectively, and quash the same and further direct the Respondent to pass a fresh order accepting all the sales return / credit note documents, in the possession of the Petitioner.

For Petitioner in all Wps : Mr.R.Sridhar

For Respondent in all WPs : Mr.K.Venkatesh Government Advocate

C O M M O N O R D E R

1.Issue Notice. Mr.K.Venkatesh, learned Government Advocate, accepts notice on behalf of the respondent. With the consent of the learned counsels for parties, the writ petition is taken up for hearing and final disposal.

2.The captioned writ petitions relate to the following assessment years:

Sl.No.	W.P.No.	Assessment Year
1	2852 of 2017	2008 - 09
2	2853 of 2017	2015 - 16
3	2854 of 2017	2014 - 15
4	2855 of 2017	2012 - 13

3.Insofar as the W.P.Nos.2852 and 2855 of 2017 are concerned, challenge is laid to two separate orders of even date i.e., 27.12.2016. Similarly, insofar as the W.P.Nos.2853 and 2854 of 2017 are concerned, challenge is laid to two separate orders of even date i.e., 23.12.2016.

4.Notably, the pre-assessment notice qua, each of the four assessment orders was a common notice dated 07.10.2016. However, in so far as the pre-assessment notice is concerned, it relates to nine (9) Assessment Years spanning from 2007-08, [i.e., December, 2007 - March, 2008] to 2015-16.

4.1. The burden of pre-assessment notice, inter alia, was that, since, relevant documents vis-a-vis sales return had not been furnished at the time when an inspection was carried out by the Enforcement Wing and thereafter, within the time span of 15 days, as indicated by the petitioner, the exemption sought on that account had to be reversed.

5.I am informed by the learned counsel for the petitioner that, since, documents were presented to the respondent/ assessing officer concerning five (5) out of the nine (9) assessment years, which were the subject matter of the pre-assessment notice, the proceedings related to those assessment years were closed.

5.1.Therefore, the learned counsel for the petitioner says that, if, time is granted qua, the assessment years which are under challenge in the captioned writ petitions, the petitioner, would be able to satisfy the respondent/ assessing officer that the exemption claimed vis-a-vis, sales return was sustainable.

6.Mr.Venkatesh, on the other hand says that the petitioner was given 15 days time, as sought by it to present documents, and since, documents were not presented, the respondent/ assessing officer proceeded to confirm the proposal made in the pre-assessment notice.

7.I have heard the learned counsels appearing for the parties and perused the record.

8.Admittedly, the petitioner could not furnish the documents within the period of 15 days. The pre-assessment notice required submission of documents for nine (9) Assessment Years. The petitioner, as it appears, wrongly estimated the time frame, within which, it hoped to be able to produce the relevant documents.

8.1.The petitioner's stand in the writ petitions, is that, for the nine (9) assessment years, it was required to collect documents running to 82,000 pages, and therefore, further time ought to have been granted by the respondent/assessing officer.

8.2. Thus, in effect, the prayer made before me, is that, if, further time is granted, the petitioner, would be able to satisfy the respondent/assessing officer that the exemption claimed qua sales returns was genuine and valid.

9.I have put to Mr.Venkatesh, as to whether the respondent/ assessing officer would like to re-visit the issue, given the recent history, when, upon production of relevant documents qua five (5) out of the nine (9) assessment years, (which were subject matter of the aforementioned pre-assessment notice), proceedings qua petitioner were closed, in respect of those five (5) assessment years.

9.1. Mr.Venkatesh, says further opportunity could be given to produce relevant documents for the remaining assessment years, which are subject of the captioned writ petitions.

10.Therefore, having regard to the stand of the counsels for parties, the impugned orders, to which I have made a reference above, are set aside. The respondent/ assessing officer will redo the assessment. For this purpose, the petitioner's authorised representative will appear before the respondent/ assessing officer on 06.03.2017 at 11.00 a.m.

10.1. In case, the said date is not convenient to the respondent/ assessing officer, he shall fix a fresh date, which will be proximate to the date indicated by the Court on the said date. The petitioner's authorised representative will present himself before the respondent/ assessing officer. All documents, albeit, in original will be produced before the respondent/ assessing officer at the time of hearing.

10.2. The respondent/ assessing officer will afford a personal hearing in the matter to the authorised representative of the petitioner and only thereafter, pass an order as indicated above. Needless to say, respondent/assessing officer shall pass a speaking order.

11.The writ petitions are disposed of, in the aforementioned terms. Consequently, the connected pending applications are also closed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

The Deputy Commissioner (CT) - I
LTU Assessment Circle (Large Tax Payer Unit)
5th Floor, Dugar Towers
No.34, Marshall Road, Egmore
Chennai - 600 008.

+1cc to Mr.R.Sridhar, Advocate, S.R.No.7137
+1cc to the Special Government Pleader(T), S.R.No.7414

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TM(CO)
CA(06/02/2017)