IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.10.2017

CORAM

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

W.P.Nos.36312 & 36313 of 2007

&

M.P.Nos.1 +1 of 2007

M/s. EMCEE Chemicals
Rep. by its Manager
Sulur
Coimbatore ... Petitioner in both petitions

vs

The Deputy Commercial Tax Officer
Palladam Assessment Circle ... Respondent in both petitions

Writ Petitions filed under Article 226 of the Constitution of India for the issuance of Writ of Certiorari calling for the records of the respondent in his proceedings in TNGST No.6240295/1997-98 and TNGST No.6240295/1998-99 and quash the assessment orders dated 28.09.2007 made therein as barred by time in view of the law laid down by this Court in the case of M.Srinivasa Road V. The Assistant Commissioner of Income Tax and reported in 2007(5)CTC 483.

For Petitioner : Mr.B.Raveendran

For Respondent : Mr.K.Venkatesh
Government Advocate

O R D E R

Heard Mr.B.Raveendran, learned counsel for the petitioner and Mr.A.P.Srinivas, learned standing counsel appearing for the respondents.

2.In these writ petitions the petitioner has challenged the Assessment Orders under the provisions of Tamil Nadu General Sales Tax Act for the Assessment Years 1997-98 and 1998-99. Though several grounds have been raised by the petitioner in the affidavit filed in support of the writ petitions, the first and foremost challenge is on the ground of arbitrary exercise of power and violation of principles of natural justice.

3. To demonstrate the fact that there has been arbitrary and capacious exercise of power, the learned counsel for the petitioner submits that pursuant to the notice received by the petitioner proposing to revise the assessment for the relevant years for 7 long years, the petitioner had filed objections dated 09.10.2001 The respondent did not pass any orders on the said objection, but all of a sudden, the impugned Assessment Orders have been passed, that too, without further opportunity to the petitioner. He has further submitted that though at the time when the writ petitions were admitted, no interim order was granted, till date, the respondent has not initiated any proceedings against the petitioner pursuant to the impugned Assessment Order.

4.This fact does not require a counter affidavit because the date will clearly show that there has been inaction on the part of the respondent for 7 long years after receipt of the objections dated 09.10.2001. This is sufficient to hold that the petitioner has been put to prejudice.

5. Considering the facts and circumstances of the case, there will be a direction to the petitioner to treat the impugned Assessment Order as show-cause notice and submit their objections within a period of 30 days from the date of receipt of a copy of this order. On receipt of the same, the respondent shall afford an opportunity of personal hearing to the petitioner and redo the assessment in accordance with law.

6. The writ petitions are disposed of with the above direction. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

gpa

To

The Deputy Commercial Tax Officer
Palladam Assessment Circle

+1cc to Mr.B.Raveendran Advocate, S.R.No. 75054

+1cc to the Government Pleader, S.R.No. 75208

W.P.Nos.36312 & 36313 of 2007 &
M.P.Nos.1 +1 of 2007

RK (CO)
TR(20/11/2017)