IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.04.2018

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THE HON'BLE MR. JUSTICE T.S.SIVAGNANAM

W.P.Nos.9272 to 9276 of 2018 &
W.M.P. Nos.11073 to 11077 of 2018

M/s White House Residencies India Pvt Ltd.
Rep. by its Managing Director
No. B1/104, Sree Vatsa Global Village
Athipalayam Road
Chinnavedampatti
Coimbatore 641 049 ...Petitioner in all WPs

v.

The State Tax Officer
Peelamedu North Circle
Coimbatore 18 ...Respondent in all WPs

W.P.No.9272/2018 : Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records of the respondent in his proceedings in TIN 33272123176/2011-12, quash the assessment order dated 05.03.2018 passed therein.

W.P.No.9273/2018 : Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records of the respondent in his proceedings in TIN 33272123176/2012-13, quash the assessment order dated 05.03.2018 passed therein.

W.P.No.9274/2018 : Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records of the respondent in his proceedings in TIN 33272123176/2013-14, quash the assessment order dated 05.03.2018 passed therein.

W.P.No.9275/2018 : Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records of the respondent in his proceedings in TIN 33272123176/2014-15, quash the assessment order dated 05.03.2018 passed therein.

W.P.No.9276/2018 : Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records of the respondent in his proceedings in TIN 33272123176/2015-16, quash the assessment order dated 05.03.2018 passed therein.

For Petitioner : Mr.P.V.Sudakar

For Respondent : Mr.M.Hariharan
Addl. Govt. Pleader (T)

COMMON ORDER

Heard Mr.P.V.Sudakar, learned counsel for the petitioner and Mr.M.Hariharan, learned Additional Government Pleader (T) for the respondent.

2.The petitioner, who is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006, is aggrieved by the impugned assessment orders for the years 2011-12 to 2015-16.

3. The petitioner is not before this court challenging the impugned orders on the merits of the assessment, but, pleading for one more opportunity to be granted to him to go before the Assessing Officer and explain the transaction, which are alleged to be done by the petitioner and not reported in their returns.

4. The learned counsel appearing for the petitioner submitted that the time granted by the Assessing Officer was insufficient as the details

had to be reconciled for a period of five years and the documents are being voluminous, they require more time.

5. From the para-wise instructions submitted by the learned Additional Government Pleader appearing for the respondent, it is seen that the petitioner had earlier obtained a Registration Certificate and did not file returns and therefore, the Registration Certificate was cancelled on 28.10.2015. Thus, the respondent was fully justifed in terming the petitioner as defaulter.

6. Be that as it may, when the respondent issued notice dated 06.10.2017, the details and particulars of the transaction, which were culled out from the MIS report, were not furnished. After the petitioner made a representation dated 24.11.2017, the respondent had furnished those details along with his notice dated 02.02.2018. The petitioner was granted 7 days time to file their reply in writing. The respondent waited for nearly 26 days and since nothing was forthcoming, completed the assessment. If the petitioner wanted extension of time, nothing prevented the petitioner to appear before the Assessing Officer and make a request

for adjournment. The petitioner failed to adopt the said procedure, which would have been very reasonable procedure.

7. However, the learned counsel appearing for the petitioner would plead that if the alleged mismatch in transaction are examined carefully, all transactions can be reconciled and therefore, they prayed for one more opportunity may be granted to the petitioner. It is further submitted that the petitioner has already paid 10% of the disputed tax for all the assessment years.

8. Considering the fact that the assessment is for a period of five years, and admittedly, the details furnished by the respondent along with the notice dated 02.02.2018 appears to be voluminous, the court is inclined to grant one more opportunity to the petitioner to go before the Assessing Officer and explain the transaction subject to certain conditions.

9. Accordingly, the writ petitions are disposed of by directing the petitioner to pay an additional 5% of the disputed tax within fifteen days from the date of receipt of a copy of this order. If the payment is made

within the time permitted, the petitioner is entitled to treat the impugned assessment orders as show cause notices and submit their reply/objections with full details and on receipt of the reply, the respondent is directed to fix a date for personal hearing, peruse the explanation offered by the petitioner and if any clarification is required, the same shall be furnished by the petitioner and thereafter, the assessments shall be redone in accordance with law. If the petitioner fails to comply with the condition imposed within the time permitted, the benefit of this order will not enure to the petitioner and the writ petitions would stand automatically dismissed without reference to this court leaving it open to the petitioner to avail the remedy under the Act, if so advised. No costs. Consequently,connected miscellaneous petition is closed.

19.04.2018

Index : Yes/No

Rj

To

The State Tax Officer
Peelamedu North Circle
Coimbatore 18

T.S.SIVAGNANAM,J

Rj

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