IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 03.04.2018

Coram

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

Writ Petition Nos.7576 to 7581 of 2018
and
W.M.P.Nos.9464 to 9469 of 2018

M/s. Cookson India Pvt. Ltd.,
No.16, SIDCO Industrial Estate,
Ambattur,
Chennai - 600 098. ...Petitioner all WPs.

Vs.

The Commercial Tax Officer (ST)
Pattaravakkam Assessment Circle,
Chennai - 600 050. ...Respondent all WPs.

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for records of the first respondent, in the impugned order in TIN No.33151360046/2009-10, 2010-11, 2011-12, 2012-13, 2013-14, 2014-15 dated 31.01.2018, and to quash the same and further, to direct the respondent to pass fresh order after considering the reply of the petitioner on merits.

For Petitioner in all W.Ps. : Mr.R.Sridhar
For Respondent in all W.Ps : Mrs.G.Dhanamadhri
Government Advocate

COMMON ORDER

Heard Mr.R.Sridhar, the learned counsel appearing for the petitioner and Mrs.G.Dhanamadhri, the learned Government Advocate, accepting notice on behalf of the respondents. As the prayer sought for in all these Writ Petitions are identical, with consent of the learned counsel on either side, the Writ Petitions have been heard together and disposed of by this common order.

2. These Writ Petitions have been filed by the petitioner, challenging the assessment orders passed by the respondent under the provisions on the Tamil Nadu Value Added Tax, 2006 (TNVAT Act) for the assessment years 2009-10, 2010-11, 2011-12, 2012-13, 2013-14 and 2014-15.

3. First and foremost, it is pointed out that, without affording an opportunity of personal hearing to the petitioner, assessments have been revised. That apart, there is no specific reason given by the Assessing Officer to reject the petitioner's objections. The only reason given by the Assessing Officer is by stating that, the objections of the dealer cannot be accepted, as they have not raised objections before the Audit Officer. This observations made by the Assessing Officer is wholly erroneous. If this observation is allowed to stand, it would amount to endorsing the illegal order. The Assessing Officer is a competent Authority to consider the objections filed by a dealer for issuing revision notice. Furthermore, the petitioner submitted replies, dated 23.05.2016, and sought for certain documents and requested time for furnishing the connected forms. This request has not been considered.

4. Thus, for the above reasons, the impugned orders call for interference. Accordingly, these Writ Petitions are allowed, the impugned orders are set aside and the matters are remanded to the respondent for fresh consideration, who shall furnish copies of the documents sought for by the petitioner and give them reasonable time, not less than 15 days to file their objections, after which, the respondent shall afford an opportunity of personal hearing to the petitioner and redo the assessment by taking an independent decision in the matter, uninfluenced by any of the opinion of the Audit Department. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

sd
To
The Commercial Tax Officer (ST)
Pattaravakkam Assessment Circle,
Chennai - 600 050.

+ 2 ccs to Mr.R. Sridhar,Advocate Sr.24657
+ 1 cc to Special Government pleader Sr.24949

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RK(CO)
EU(25/04/2018)