IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.07.2018

Coram

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

W.P.Nos.6806 to 6808 of 2017
&
W.M.P.Nos.7375 to 7377 of 2017

M/s.3F Industries Ltd.,
(Represented by its Authorised Signatory)
Mr.M.Sundar Singh
Having Registered Office at
7th Floor, Fountain Plaza
at No.343, Pantheon Road
Egmore, Chennai - 600 008 ... Petitioner in all WPs

Vs.

1.The State of Tamil nadu
Rep. By its Secretary to Government
Department of Commercial Taxes and Registration
Ft. St. George
Chennai - 600 009

2.The Commissioner of the Commercial Taxes
Ezhilagam, Chepauk
Chennai- 600 005

3.The Commercial Tax Officer
Egmore Assessment Circle
No.88, Mayor Ramanathan Salai
Chetpet, Chennai - 600 031 ... Respondents in all Wps

Writ petitions filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records relating to the assessment order passed by the 3rd respondent in his assessment order proceedings TIN No.33670440200/2007-2008, TIN No.33670440200/2008-09 and TIN No.33670440200/2009-10 dated 16.02.2017 received by the petitioner on 20.02.2017, quash the same and to direct the 3rd respondent to pass fresh orders after the verification of the accounts of the petitioner and after affording an opportunity of personal hearing.

For Petitioner : Mr.A.S.Mujibur Rahman

For Respondents: Mr.M.Hariharan
Additional Government Advocate

ORDER

Heard A.S.Mujibur Rahman, learned counsel for the petitioner and Mr.M.Hariharan, learned Additional Government Pleader appearing for the respondents.

2. The petitioner has filed these writ petitions challenging the assessment orders dated 16.02.2017 passed under the provisions of the Tamil nadu Value Added Tax Act for the Assessment years 2007-08 to 2009-10.

3.The petitioner's contention is that if opportunity had been granted to them to produce necessary records in respect of the transactions, which according to the respondent, are not supported by records, the impugned assessment orders could have been avoided.

4.The respondent, in the parawise instruction given to the learned Additional Government Pleader, has stated that sufficient opportunity was granted to the petitioner and wherever there was satisfactory explanation, the same has been accepted. However, in respect of the sales suppression, since no records were filed by the petitioner, the assessments have been completed and the impugned orders have been passed.

5.In my considered view, when there is a revision of assessment based upon details, which have been taken from the intranet website of the Department, a more cautious approach is required to be adopted by the Assessing Officer, because the assessee is confronted with details, which are exclusively within the domain of the Department.

6. In the light of the above, this Court is inclined to grant one more opportunity to the petitioner to go before the Assessing Officer.

Accordingly, the writ petitions are disposed of by directing the petitioner to treat the Assessment Order as show-cause notice and submit their supplementary reply along with necessary documents to justify their stand. This direction should be complied with by the petitioner within 15 days from the date of receipt of a copy of this order. On receipt of the supplementary reply, the third respondent shall afford an opportunity of personal hearing and redo the assessment in accordance with law. Till then, no coercive action shall be initiated against the petitioner. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

gpa

To

1. The Secretary to Government
   Department of Commercial Taxes and Registration
   Ft. St. George
   Chennai - 600 009

2.The Commissioner of the Commercial Taxes
  Ezhilagam, Chepauk
  Chennai- 600 005

3.The Commercial Tax Officer
  Egmore Assessment Circle
  No.88, Mayor Ramanathan Salai
  Chetpet, Chennai - 600 031

+3cc to Mr.M.MD.Ibrahim Ali, Advocate, S.R.No.51174

+1cc to the Spl Government Pleader, S.R.No.52043

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AD(CO)
GSP(20/08/2018)