IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.04.2018

Coram

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

Writ Petition Nos.7702 to 7705 of 2018

M/s. DLF Projects Ltd.,
Formerly known as M/s.DT Projects Ltd.,
rep. by its Authorized Signatory,
No.1/124, Shivaji Nagar Gardens,
Ramapuram, Chennai - 600 089. ...Petitioner in all W.Ps.

Vs.

1. The State of Tamil Nadu,
   rep. by its Secretary to Government of Tamil Nadu,
   Department of Commercial Taxes,
   Secretariate, Fort St. George,
   Chennai - 600 009.

2. The Joint Commissioner (ST)
   Chennai (South) Division,
   Chennai - 600 006.

3. The Assistant Commissioner (ST)
   Alandur Assessment Circle,
   Alandur. ...Respondents in all W.Ps.

Prayer in W.P.No.7702 of 2018:

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for records of the second respondent, in the impugned common order in RP.No.33/20 to 45/10 dated 28.12.2017, as it travels beyond the scope of Section 2 (33), Section 2 (44), Section 18 (1), of the Tamil Nadu Value Added Tax Act, 2006 and Section 2 (m) and Section 51 of the Special Economic Zones Act, 2005, insofar as the petitioner is concerned, and to quash the impugned order and to direct the third respondent to sanction the refund claimed by the petitioner for the period July, 2007 to March, 2008 and November, 2009 to February, 2010 to the extent of Rs.92,66,603/-

Prayer in W.P.No.7703 of 2018:

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for records of the second respondent, in the impugned common order in RP.No.23/11 to 41/11 dated 29.12.2017, as it travels beyond the scope of Section 2 (33), Section 2 (44), Section 18 (1), of the Tamil Nadu Value Added Tax Act, 2006 and Section 2 (m) and Section 51 of the Special Economic Zones Act, 2005, insofar as the petitioner is concerned, and to quash the impugned order and to direct the third respondent to sanction the refund claimed by the petitioner for the period April, 2008 to December, 2008 and January, 2009 to October, 2009 to the extent of Rs.67,87,332/-

Prayer in W.P.No.7704 of 2018:

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for records of the second respondent, in the impugned order in RP.No.8/2013, dated 11.01.2018, as it travels beyond the scope of Section 2 (33), Section 2 (44), Section 18 (1), of the Tamil Nadu Value Added Tax Act, 2006 and Section 2 (m) and Section 51 of the Special Economic Zones Act, 2005, insofar as the petitioner is concerned, and to quash the impugned order and to direct the third respondent to sanction the refund claimed by the petitioner for the period from March, 2012 to the extent of Rs.83,838/-.

Prayer in W.P.No.7705 of 2018:

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for records of the second respondent, in the impugned common order in RP.No.132/14 to 145/14 dated 12.01.2018, as it travels beyond the scope of Section 2 (33), Section 2 (44), Section 18 (1), of the Tamil Nadu Value Added Tax Act, 2006 and Section 2 (m) and Section 51 of the Special Economic Zones Act, 2005, insofar as the petitioner is concerned, and to quash the impugned order and to direct the third respondent to sanction the refund claimed by the petitioner for the period April, 2010 to July, 2010; March, 2011 and May, 2011 to January, 2012 to the extent of Rs.10,29,051/-.

Appearance of the counsels in all W.Ps.

For Petitioner : M/s. Radhika Chandra Sekhar

For Respondents : Mrs.G.Dhanamadhri
Government Advocate

COMMON ORDER

Heard M/s. Radhika Chandra Sekhar, the learned counsel appearing for the petitioner and Mrs.G.Dhanamadhri, the learned Government Advocate, accepting notice on behalf of the respondents. Since the issue involved and the parties in these Writ Petitions are identical, with consent of the learned counsel on either side, the Writ Petitions are taken up together and disposed of by this common order.

2. The petitioner has filed these Writ Petitions, challenging the orders passed by the second respondent, viz., the Joint Commissioner (ST) Chennai (South) Division.

3. Admittedly, as against the impugned orders, the petitioner has an effective alternate remedy of filing an Appeal before the Additional Commissioner (RP), Chepauk, Chennai.

4. The learned counsel appearing for the petitioner submitted that, the second respondent, though has referred to the decision in Nokia India Sales Private Limited Vs. Assistant Commissioner (CT) in W.A.Nos.1118 and 1119 of 2015, but has denied the relief to the petitioner.

5. In my considered view, when there is an effective alternate remedy, the petitioner should exhaust such a remedy and should not bypass such remedy, especially, when the matter arises under a taxation statute. Therefore, these Writ Petitions are disposed of, by directing the petitioner to file Appeal before the Additional Commissioner (RP), Chepauk, Chennai, and if such Appeal is filed within a period of thirty days from the date of receipt of a copy of this order, the Appellate Authority shall entertain the Appeal, without rejecting it on the ground of limitation. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1. The State of Tamil Nadu,
rep. by its Secretary to Government of Tamil Nadu,
Department of Commercial Taxes,
Secretariate, Fort St. George,
Chennai - 600 009.

2. The Joint Commissioner (ST)
Chennai (South) Division,
Chennai - 600 006.

3. The Assistant Commissioner (ST)
   Alandur Assessment Circle,
   Alandur.

4. The Additional Commissioner (RP)
   Chepauk, Chennai.

5. The Section Officer,
   E.R.Section,
   High Court, Madras.

+1cc to M/s. Radhika Chandra Sekhar, Advocate, S.R.No.24694
+1cc to the Special Government Pleader(T), S.R.No.24950

Writ Petition Nos.7702 to 7705 of 2018

KAN(CO)
CS/16/04/18