IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2018

CORAM

THE HONOURABLE Mr. JUSTICE M.DURAISWAMY

W.P.Nos.3984 to 3988 of 2018 &
W.M.P.Nos.4897 to 4901 of 2018

Tvl.Chennai Roofings P Ltd.
Rep. by its Managing Director
Mr.V.Ramalingam
No.1/264, Singarathottam
Vandalur
Chennai - 48. .. Petitioner in all W.Ps

vs.

The Assistant Commissioner (CT)
Tambaram Assessment circle
19-A, Sivashanmugam Salai
West Tambaram
Chennai - 600 045 .. Respondent in all W.Ps

W.P.No.3984/2018 filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records on the file of the respondent proceedings in RC 2010/2014/A4/2005-06, dated 12.01.2018 and quash the same being illegal, invalid, without authority of law and violated the principles of natural justice.

W.P.No.3985/2018 filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records on the file of the respondent proceedings in RC 2010/2014/A4/2006-07, dated 12.01.2018 and quash the same being illegal, invalid, without authority of law and violated the principles of natural justice.

W.P.No.3986/2018 filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records on the file of the respondent proceedings in TIN / 33510887652/2007-08, dated 12.01.2018 and quash the same being illegal, invalid, without authority of law and violated the principles of natural justice.

W.P.No.3987/2018 filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records on the file of the respondent proceedings in TIN / 33510887652/2008-09, dated 12.01.2018 and quash the same being

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illegal, invalid, without authority of law and violated the principles of natural justice.

W.P.No.3988/2018 filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records on the file of the respondent proceedings in TIN / 33510887652/2009-10, dated 12.01.2018 and quash the same being illegal, invalid, without authority of law and violated the principles of natural justice.

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

COMMON ORDER

Mr.M.Hariharan, learned Additional Government Pleader (Tax), takes notice for the respondent. By consent, the main writ petitions are taken up for disposal at the admission stage itself.

2. The petitioner has filed the above writ petitions to issue a Writs of Certiorari, calling for the records on the file of the respondent dated 12.01.2018 for the assessment years 2005-06, 2006-07, 2007-08, 2008-09 and 2009-10 and to quash the same being illegal, invalid, without authority of law and violation of principles of natural justice.

3. It is the case of the petitioner that they have challenged the order dated 28.01.2015 in W.P. Nos.10101 to 10105 of 2015 and this Court, by order dated 09.04.2015, set aside the assessment orders and directed to respondent to re-do the assessment after furnishing copies of the records. Thereafter, the petitioner, by letter dated 06.06.2015, requested copies of the records seized, but, the respondent without furnishing the records to the petitioner, passed the identical order, which is impugned in these writ petitions. Further, the petitioner contended that due to financial pressure from the money lenders, the Managing Director and his wife fell ill and were not in a position to appear before the respondent for personal hearing.

4. The learned counsel appearing for the petitioner submitted that one more opportunity may be given to the petitioner to contest the matter in accordance with law. Further, the learned counsel submitted that the respondent may be directed to furnish the copies of the records to the petitioner enabling them to contest the matter.

5. Mr.M.Hariharan, learned Additional Government Pleader (Tax), appearing for the respondent submitted that the petitioner has not produced any medical records to prove that the Managing Director and his wife, who is also a Director of the company, were laid up with illness.

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6. Having regard to the submissions made by the learned counsel on either side and on a perusal of the materials available on record, it could be seen that in spite of the order passed by this Court on 09.04.2015 in W.P. Nos.10101 to 10105 of 2015, the petitioner was not furnished with the copies of the records. That apart, since the Managing Director and the Director of the company were suffering from illness, they could not appear for personal hearing before the respondent. Taking into consideration all these aspects, in the interest of justice, I am of the view that an opportunity can be given to the petitioner to put-forth their case on merits. Accordingly, the impugned orders dated 12.01.2018 in respect of the assessment years 2005-06, 2006-07, 2007-08, 2008-09 and 2009-10 are set aside. The respondent is directed to furnish copies of the records to the petitioner, within a period of two weeks from the date of receipt of a copy of this order and on receipt of such copies, the petitioner is directed to appear before the respondent for personal hearing within a week thereafter. The respondent is directed to decide the matter afresh, on merits and in accordance with law, after giving due opportunity of personal hearing, as expeditiously as possible.

With these observations, the writ petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True copy//

Sub Assistant Registrar

Rj

To

The Assistant Commissioner (CT)
Tambaram Assessment circle
19-A, Sivashanmugam Salai
West Tambaram
Chennai - 600 045

+1cc to Mr.D.Vijaya Kumar, Advocate SR.No.13452
+1cc to Special Government Pleader SR.No.14198

W.P.Nos. 3984 to 3988 of 2018 &
W.M.P.Nos.4897 to 4901 of 2018

GN(27/02/2018)

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