IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.07.2018

CORAM :

The Hon'ble MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.14681 to 14683 of 2018
and W.M.P.Nos.17332 to 17334 of 2018

M/s.SJ Engineers Renewable
Energy (P) Limited,
Rep. by Mr.S.Ramasubramanian, Director.
.. Petitioner in all WPs.

-vs-

The State Tax Officer,
Singannallur Circle, Coimbatore.
.. Respondent in all WPs

Petitions filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorari to call for the records on the file of the respondent in TIN:33341827627/2014-15, 33341827627/2015-16 and 33341827627/2016-17 dated 16.03.2018 and quash the same as being invalid and illegal, without jurisdiction and violative of principles of natural justice, as per the principles stated by the Court in W.A.(MD) No.1323/2016 dated 29.09.2016 (M/s.Anthony & Co., vs. The State of Tamil Nadu and Others).

For Petitioner : Mr.V.Srikanth

For Respondent : Mr.M.Hariharan
Addl.G.P.

COMMON ORDER

Heard Mr.V.Srikanth, learned counsel for the petitioner and Mr.M.Hariharan, learned counsel for the respondent.

2.When the writ petition was entertained by this Court on 18.06.2018, the Court has recorded a prima facie finding as to why it was inclined to entertain the writ petition and grant an order of interim stay. The order is quoted hereinbelow:

"Heard the learned counsel for the petitioner.

2. The petitioner would state that the respondent, in the impugned orders, stated that no objections were filed by the petitioner. But, the fact remains that the auditor of the petitioner appeared before the respondent and requested for one month's time for submitting their explanation in view of the closure of the financial year and preparation of various accounts and records under the provisions of the Income Tax Act, 1961 and the Goods and Services Tax Act, 2017. Therefore, it is submitted that the respondent could have granted time as sought for by the petitioner instead of completing the assessment ex parte. It is further submitted that the respondent has not granted an opportunity of personal hearing as mandatorily required and more particularly in the light of the circular in Circular No.7/2014 dated 03.2.2014 issued by the Principal Secretary/Commissioner of Commercial Taxes. In support of such a contention, reliance is placed on the decisions of the Hon'ble Division Benches of this Court in the cases of (i) Anthony & Co. Vs. State of Tamil Nadu & Others [W.A.(MD).No.1323 of 2016 dated 29.9.2016]; and (ii) Delphi Automative Systems (P) Ltd. AC (CT), Pammal Assessment Circle [W.A.No.173 of 2018 dated 29.1.2018].

3. In the light of the above, there will be an order of interim stay. Mr.M.Hariharan, learned Additional Government Pleader accepts notice for the respondent and seeks time to get instructions and file counter. List on 12.7.2018."

3.The respondent has not disputed the prima facie observation made by this Court that there has been violation of principles of natural justice. The opportunity of personal hearing, which is mandatorily required to be granted, has not been granted. Apart from that, the respondent does not dispute the submission of the learned counsel for the petitioner that the decisions relied upon by the petitioner would apply to the case on hand. Thus, the case of the petitioner having been accepted by the respondent, the impugned assessment orders called for interference.

4.Accordingly, the writ petitions are allowed, the impugned orders are set aside and the matters are remanded for fresh consideration by the respondent, who shall afford an opportunity of personal hearing to the petitioner and re-do the assessments in accordance with law. No costs. Consequently, W.M.P.Nos.17332 to 17334 of 2018 are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

sra

To

The State Tax Officer,
Singannallur Circle, Coimbatore.

+1cc to Special Government Pleader SR.No.46235
+1cc to Mr.C.Venkataraman, Advocate sR.No.45887

sm:20.7.2018

W.P.Nos.14681 to 14683 of 2018