

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2018

CORAM

THE HON'BLE MR.JUSTICE T.SIVAGNANAM

W.P.Nos.22080 to 22083 of 2013
and M.P.Nos.1 to 1 of 2013

Almech Engineers (P) Limited,
Represented by its Director Mr.K.S.Vijayan,
No.4/5, First Floor, Moogambigai Street,
Jai Balaji Nagar, Nesapakkam,
Chennai - 600 078 ...Petitioner in all W.Ps.

...Vs...

The Commercial Tax Officer,
Alandur Assessment Circle,
12, Vedagiri Street, Alandur,
Chennai - 16. ...Respondent in all W.Ps.

Prayer in W.P.No.22080 of 2013: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the records of the respondent in TIN 33460841750/2007-2008 dated 30.05.2013 and quash the impugned proceedings dated 30.05.2013.

Prayer in W.P.No.22081 of 2013: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the records of the respondent in TIN 33460841750/2008-2009 dated 30.05.2013 and quash the impugned proceedings dated 30.05.2013.

Prayer in W.P.No.22082 of 2013: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the records of the respondent in TIN 33460841750/2009-2010 dated 30.05.2013 and quash the impugned proceedings dated 30.05.2013.

Prayer in W.P.No.22083 of 2013: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the records of the respondent in

TIN 33460841750/2010-2011 dated 30.05.2013 and quash the impugned proceedings dated 30.05.2013.

For Petitioner in all W.Ps. : Mr.R.Kumar

For Respondent in all W.Ps. : M/s.G.Dhana Madhri
Government Advocate

COMMON ORDER

Heard Mr.R.Kumar, learned counsel appearing for the petitioner and M/s.G.Dhana Madhri, learned Government Advocate appearing for the respondent.

2.The petitioner who is the registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax, 2006, (hereinafter referred to as TNVAT Act) has filed these writ petitions challenging the assessment orders for the assessment years 2007-2008 to 2010-2011. It may not be necessary for this Court to labour much to test the correctness of the impugned orders as the Court is fully convinced that the impugned orders are classical examples of how assessment orders should not be passed. The impugned orders are devoid of reasons and there is no independent application of mind by the Assessing Officer. The manner in which the impugned assessment orders have been passed clearly shows that the Assessing Officer has abdicated his statutory responsibility. The exercise of power by the Assessing Officer in computing tax and penalty is an arbitrary exercise which cannot stand in the scrutiny of law.

3.On a reading of the impugned order, more particularly, page No.4 of it, one gets an initial impression that the order is a reasoned order. But, on a closer scrutiny, it is found that the decision of the Assessing Officer contained only in three lines and the decision arrived at by him is wholly erroneous because the Assessing Officer proceeds on the basis that the dealers have admitted the position before the enforcement wing and they have furnished details to the enforcement wing. The next sentence is contrary to the earlier sentence, in as much as the respondent states that the dealers have not furnished the details of sub-contractors with registration numbers. All the above reasons would be more than sufficient to set aside the impugned orders.

4. Accordingly, the writ petitions are allowed, the impugned orders are set aside and the matter is remanded to the respondent for fresh consideration, who shall afford an opportunity of personal hearing to the authorized representative of the petitioner and re-do the assessment in accordance with law. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

cse

To

The Commercial Tax Officer,
Alandur Assessment Circle,
12, Vedagiri Street, Alandur,
Chennai - 16.

+ 1 cc to Mr. R. Kumar, Advocate Sr.1339

W.P.Nos.22080 to 22083 of 2013
and M.P.Nos.1 to 1 of 2013

ss (CO)
EU(06/02/2018)

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