IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.7.2018

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WRIT PETITION NOS.16848 TO 16853 OF 2018
& WMP.NOS.20037 TO 20042 OF 2018

M/s.Alomex Profiles Private Limited,
rep.by its Director Mr.Vipul Kumar
Agarwal ...Petitioner in all Writ Petitions

Vs

1. The Assistant Commissioner (CT),
   Sriperumbudur Assessment Circle,
   Varadarajapuram-600123.

2. The Deputy Commissioner (CT),
   Enforcement (South), PAPJM
   Buildings, No.1, Greams Road,
   Chennai-6. ...Respondents in all Writ Petitions

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorarified Mandamus to call for the records in TIN Nos.33151662783/2011-12, 33151662783/2012-13, 33151662783/2013-14, 33151662783/2014-15, 33151662783/2015-16 and 33151662783/2017-18, all dated 28.5.2018, quash the same and further direct the first respondent to redo the assessment after perusing the records that were produced by the petitioner before the first respondent on 02.5.2018, 22.5.2018 and 31.5.2018.

For Petitioner : Mr.V.Sundareswaran

For Respondents : Mr.M.Hariharan, AGP

COMMON ORDER

Mr.M.Hariharan, learned Additional Government Pleader accepts notice for the respondents. Heard both. By consent, the writ petitions are taken up for joint disposal.

2. The petitioner has filed these writ petitions challenging the assessment orders under the provisions of the Tamil Nadu Value Added Tax Act, 2006 for the years from 2011-12 to 2015-16 and 2017-18.

3. The first ground of challenge is by contending that the impugned orders have been passed in violation of the principles of natural justice, as it has been stated that the petitioner failed to file objections nor appeared for the personal hearing. The case of the petitioner is that they have been continuously visiting the office of the first respondent with objections and that the first respondent refused to entertain the same. In the affidavits in support of these writ petitions, this has been specifically pleaded.

4. The first respondent has given parawise instructions to the Special Government Pleader (Taxes) vide letter dated 06.7.2018. In the said letter, the first respondent would state that the contention of the petitioner that they visited the office of the first respondent is not true and that they had neither filed any reply nor attended the personal hearing.

5. Thus, there is a specific plea raised by the petitioner and the same is denied by the first respondent. In the considered view of this Court, this Court need not go into the said controversy because the impugned proceedings are pursuant to a surprise inspection conducted in the place of business of the petitioner by the officials of the Enforcement Wing on 20.6.2017, in pursuance of which, a report dated 06.10.2017 has been submitted by the second respondent herein, which has prompted the first respondent to issue the revision notices dated 05.4.2018 proposing to revise the turnover under Section 27 of the said Act. Furthermore, the assessment is sought to be reopened from the assessment year 2011-12 onwards. Therefore, without going into the controversy as to whether the petitioner attended the office of the first respondent, as to whether the first respondent refused to receive the objections and as to whether the stand taken by the first respondent that the petitioner never visited the office of the first respondent, this Court is of the view that an opportunity may be granted to the petitioner. The endeavour of the first respondent should be to levy appropriate tax by following due procedure.

6. For all the above reasons, the writ petitions are disposed of by directing the petitioner to treat the impugned proceedings as show cause notices and submit their objections within a period of two weeks from the date of receipt of a copy of this order. On receipt of the objections, the first respondent shall afford an opportunity of personal hearing and redo the assessments on merits and in accordance with law. Till

such time, no coercive action shall be taken against the petitioner in pursuance of the impugned orders. No costs. Consequently, the connected WMP is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

Rs

To

1. The Assistant Commissioner (CT),
Sriperumbudur Assessment Circle,
Varadarajapuram-600123.

2. The Deputy Commissioner (CT),
Enforcement (South), PAPJM Buildings,
No.1, Greams Road, Chennai-6.

+1cc to Mr.V.Sundareswaran, Advocate, S.R.No.44326
+1cc to the Special Government Pleader(T), S.R.No.44172

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SSI(co)
CS/25/07/18