IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2018

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THE HONOURABLE Mr. JUSTICE M.DURAISWAMY

W.P.Nos.34054 to 34057 of 2013 &
M.P.Nos. 1 of 2013 (4 MPs)

M/s.S.K.Engineering Contractor
1314, Mullai street
Narayanan Nagar
Villupuram .. Petitioner in all W.Ps

v.

1. The State of Tamil Nadu
Represented by
The Secretary to Government
Commercial Taxes Department
Fort st. George
Chennai - 600 009

2.The Commissioner of Commercial Taxes
Ezhilagam, Chepauk
Chennai - 600 005.

3.The Assistant Commissioner (CT)
Villupuram II Assessment Circle
Villupuram .. Respondent in all W.Ps

W.P.No.34054 /2013 filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the 3rd respondent and quash the illegal assessment proceedings in TIN No.33234702040/2008-09, dated 23.09.2013 as unconstitutional and direct the 3rd respondent to pass order fresh orders on the commodities purchased and used in the works as per Article 366(29A)(b) of the Constitution of India and also as per section 6 of the TNVAT Act after providing an opportunity of personal hearing.

W.P.No.34055 /2013 filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the 3rd respondent and quash the illegal assessment proceedings in TIN No.33234702040/2009-10, dated 23.09.2013 as unconstitutional and direct the 3rd respondent to pass order fresh orders on the commodities purchased and used in the works as per Article 366(29A)(b) of the Constitution of India and also as per section 6 of the TNVAT Act after providing an opportunity of personal hearing.

W.P.No.34056 /2013 filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the 3rd respondent and quash the illegal assessment proceedings in TIN No.33234702040/2010-11, dated 23.09.2013 as unconstitutional and direct the 3rd respondent to pass order fresh orders on the commodities purchased and used in the works as per Article 366(29A)(b) of the Constitution of India and also as per section 6 of the TNVAT Act after providing an opportunity of personal hearing.

W.P.No.34057 /2013 filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the 3rd respondent and quash the illegal assessment proceedings in TIN No.33234702040/2011-12, dated 23.09.2013 as unconstitutional and direct the 3rd respondent to pass order fresh orders on the commodities purchased and used in the works as per Article 366(29A)(b) of the Constitution of India and also as per section 6 of the TNVAT Act after providing an opportunity of personal hearing.

For Petitioner : Mr.C.Baktha Sironmoni

For Respondent : Ms.G.Dhanamadhri
Govt. Advocate (T)

COMMON ORDER

The petitioner has filed the above writ petitions to issue a Writs of Certiorarified Mandamus to call for the records of the 3rd respondent in respect of the proceedings dated 23.09.2013 with regard to the assessment years 2008-09, 2009-10, 2010-11 and 2011-12, to quash the same and direct the 3rd respondent to pass order fresh orders on the commodities purchased and used in the works as per Article 366 (29A)(b) of the Constitution of India and also as per section 6 of the Tamil Nadu Value Added Tax Act, after providing an opportunity of personal hearing.

2. It is the case of the petitioner that the 3rd respondent had passed the impugned orders without giving an opportunity of personal hearing, which is a mandatory provision under the Act.

3. The learned counsel appearing for the petitioner

submitted that since the 3rd respondent had not given an opportunity of personal hearing to the petitioner, which is a mandatory requirement under section 22 (4) of the Tamil Nadu Value Added Tax Act, 2006 and violative of principles of natural justice, the impugned orders have to be set aside and the matters should be remitted back to the 3rd respondent for fresh consideration.

4. Ms.G.Dhanamadhri, learned Government Advocate (Tax) appearing for the respondents submitted that since the impugned orders have been passed without giving due opportunity of personal hearing, the impugned orders may be set aside and the matters may be remitted back to the 3rd respondent for fresh consideration.

5. Having regard to the submissions made by the learned counsel on either side, since the petitioner was not given due opportunity of personal hearing, which is violative of principles of natural justice, the impugned orders passed by the 3rd respondent dated 23.09.2013 are liable to be set aside. Accordingly, the impugned orders dated 23.09.2013 passed by the 3rd respondent for the assessment years 2008-09, 2009-10, 2010-11 and 2011-12, are set aside and the matters are remitted back to the 3rd respondent for fresh consideration. The 3rd respondent is directed to decide the matter afresh, on merits and in accordance with law, after giving due opportunity of personal hearing to the petitioner, as expeditiously as possible.

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

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government
Commercial Taxes Department
Fort st. George
Chennai - 600 009

2.The Commissioner of Commercial Taxes
Ezhilagam, Chepauk
Chennai - 600 005.

3.The Assistant Commissioner (CT)
Villupuram II Assessment Circle
Villupuram

+1cc to Mr.C.Baktha Siromoni, Advocate, S.R.No.14343

+1cc to Special Government Pleader S.R.No.14564

W.P.Nos.34054 to 34057 of 2013 &
M.P.Nos. 1 of 2013 (4 MPs)

VG II(CO)
RRK(28/02/2018)