IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.07.2018

Coram

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos. 40379 to 40381 of 2016
&
W.M.P.Nos. 34448 to 34450 of 2016

Tvl. IOT Anwesha Engineering & Construction Ltd.,
Represented by its Chief Finance Officer,
Mr.Sandeep Murarka
CPCL Complex, Manali,
Chennai - 600 068. ... Petitioner in all W.Ps

Vs.

1. The Commissioner of Commercial Taxes
2nd Floor, Elilagam,
Chepauk,
Chennai 600 005.

2. The Assistant Commissioner (C.T)
Manali Assessment Circle,
Manali, Plot No.5/79 Kavirasu
Kannadasan Nagar,
Kodunkaiyur, Chennai - 600 118.

3. Assistant Commissioner (CT) Town
No.9, C.T.Building, Ground Floor,
Sub-Jail Road
Manjakuppam
Cuddalore- 607 001

4 Commercial Tax Officer Enforcement Wing (North)
Group No.1, C.T.Building,
Greams Road
Chennai- 600 006 ... Respondents

Writ petitions filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records relating to the revision of assessment orders in his proceedings in TIN 33724403641/2012-13 to 2014-15 dated 12.08.2016 which was received by the petitioner on 20.10.2016 passed by the 2nd respondent and quash the same and to direct the 3rd respondent to afford an opportunity of personal hearing, to consider the objections filed by the petitioner dated 16.07.2015, which was received by the 2nd respondent on 16.07.2015.

For Petitioner : M/s.M.MD.Ibrahim Ali

For Respondents: Mr.G. Dhana Madhri
Government Advocate

ORDER

Heard Mr.M.MD.Ibrahim Ali, learned counsel for the petitioner and Mr.G.Dhana Madhri, learned Government Advocate appearing for the respondents.

2.The petitioner has filed these writ petitions challenging the assessment orders passed under the provisions of the Tamil Nadu Value added Tax Act, 2006 for the Assessment year 2012-13 to 2014-15. The said assessments have been completed on the ground that the petitioner did not submit their objections to the pre-assessment notices dated 07.07.2015, 28.12.2015 and 27.01.2016. The respondents' case was that after the objections were filed, the respondent issued notices of personal hearing and on 28.01.2016, his statement was recorded by the Thiru.M.S.Kathiravan, the Assistant Commissioner (CT) (FAC), Manali Assessment Circle.

3.The Court, while entertaining the writ petition, recorded the above submissions of the learned counsel for the petitioner and granted an order of interim stay and directed the respondents to file counter affidavit. The respondent has given instruction to the learned Government Advocate vide her letter dated 09.03.2018, wherein it has been stated that the objection filed by the petitioner is not available in the file. There is a specific denial with regard to the statement, which has been recorded from the petitioner by the then Assessing officer, copy of this has been filed in Page No.12 of the typed-set of papers. Thus, in the absence of any specific denial to the said submission made by the petitioner, this Court holds that the impugned Assessment Orders have been passed in violation of principles of natural justice.

4.The above reasons would have been sufficient to set aside the impugned orders. However, considering the fact that the assessment orders are relating to the Assessment years 2012-13 to 2014-15, this Court is inclined to issue appropriate directions.

Accordingly, these writ petitions are disposed of by directing the petitioner to treat the impugned Assessment Orders as show-cause notices and submit their objections within 15 days from the date of receipt of a copy of this order and on receipt of the objections, the second respondent shall afford an opportunity of personal hearing, which shall be an effective opportunity and after clarifying the points, the second respondent shall take an independent decision in the matter, without being influenced by the report submitted by the Enforcement Wing Officials, who have inspected the petitioner's place of business on 22.12.2014. Till the above directions are completed, no coercive action shall be initiated against the petitioner. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

To
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Chepauk,
Chennai 600 005.

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4 The Commercial Tax Officer Enforcement Wing (North)
Group No.1, C.T.Building, Greams Road
Chennai- 600 006.

+ 3 cc to Mr.M. Md. Ibrahim Ali, Advocate Sr.51173
+ 1 c to Mr. the Government Pleader Sr.52041

W.P.No.7197 of 2016 &
W.M.P.Nos.6384 and 6385 of 2016

GP(CO)
EU(16/08/2018)