IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2018

CORAM
THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.Nos.33557, 33564, 33568, 33570, 33574 & 33577 of 2018
and
W.M.P.Nos.38945, 38951, 38953, 38955, 38959 & 38962 of 2018

M/s.Arenco Catering
Represented by its Managing Partner
Mr.Shafique K.P
Platform No.1 & 2,
Erode Railway Station,
Erode. ...Petitioner
(in all W.Ps)

Vs

The Assistant Commissioner (State Tax)
Nethaji Road Circle,
Erode. ...Respondent
(in all W.Ps)

Writ Petition No.33557 of 2018 filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the respondent in his proceedings in TIN No.33552883793/2010-2011 and quash the impugned order dated 01.10.2018 passed therein and further direct the respondent to consider the representation of the petitioner before passing final order.

Writ Petition No.33564 of 2018 filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the respondent in his proceedings in TIN No.33552883793/2011-2012 and quash the impugned order dated 03.10.2018 passed therein and further direct the respondent to consider the representation of the petitioner before passing final order.

Writ Petition No.33568 of 2018 filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the respondent in his proceedings in TIN No.33552883793/2012-2013 and quash the impugned order dated 05.10.2018 passed therein and further direct the respondent to consider the representation of the petitioner before passing final order.

Writ Petition No.33570 of 2018 filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the respondent in his proceedings in TIN No.33552883793/2013-2014 and quash the impugned order dated 05.10.2018 passed therein and further direct the respondent to consider the representation of the petitioner before passing final order.

Writ Petition No.33574 of 2018 filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the respondent in his proceedings in TIN No.33552883793/2014-2015 and quash the impugned order dated 08.10.2018 passed therein and further direct the respondent to consider the representation of the petitioner before passing final order.

Writ Petition No.33577 of 2018 filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the respondent in his proceedings in TIN No.33552883793/2015-2016 and quash the impugned order dated 08.10.2018 passed therein and further direct the respondent to consider the representation of the petitioner before passing final order.

For Petitioner : Mr.A.R.L.Sundaresan
Senior Counsel
for Mr.AL.Ganthimathi
(in all W.Ps)

For Respondent : Mrs.G.Dhana Madhri
Government Advocate (Tax)
(in all W.Ps)

C O M M O N   O R D E R

Mrs.G.Dhana Madhri, learned Government Advocate (Tax) takes notice for the respondent. By consent of the parties, these writ petitions are taken up for final disposal at the admission stage itself.

2. These writ petitions are filed challenging the orders of assessment dated 01.10.2018, 03.10.2018, 05.10.2018, 05.10.2018, 08.10.2018, 08.10.2018 passed in respect of assessment years 2010-2011 to 2015-2016 respectively.

3. Heard Mr.ARL.Sundaresan, learned Senior Counsel appearing for the petitioner and Mrs.G.Dhana Madhri, learned Government Advocate (Tax) for the respondent.

4. The Assessing Officer, before passing the impugned orders of assessment, sent a notice of proposal to the petitioner in respect of each assessment year. However, the Assessing Officer found that the petitioner has not filed any reply. He has noted in the impugned orders that an opportunity of personal hearing was offered to the petitioner through notice dated 07.08.2018, which was returned with an endorsement "left". He has also noted in the impugned orders that an attempt to serve the notice in person also ended in vein, as it was ascertained that the dealer has left the place. Therefore, the Assessing Officer has passed the impugned orders of assessment, by confirming the proposal without discussing the merits of the proposal.

5. The learned Senior Counsel for the petitioner submitted that no such notice was ever issued to the petitioner. He further submitted that raising all the contentions, the petitioner has already filed applications under Section 84 of the Tamil Nadu Value Added Tax Act, 2006 on 01.12.2018 and therefore, the Assessing Officer may be directed to consider the said applications and pass orders on the same on merits and in accordance with law. The learned Senior Counsel further contended that the petitioner is having sufficient material to place before the respondent at the time of hearing the applications under Section 84 of the TNVAT Act, 2006.

6. Considering the fact that the petitioner has already approached the respondent by way of filing the applications under Section 84 of the TNVAT Act, 2006, these writ petitions are disposed of, without expressing any view on the merits of the contention raised by the petitioner as against the orders of assessment, only with a direction to the respondent to consider the applications filed by the petitioner under Section 84 of the TNVAT Act, 2006, and pass orders on the same on merits and in accordance with law, after giving an opportunity of personal hearing to them. Such exercise shall be done by the respondent within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mk

To

The Assistant Commissioner (State Tax)
Nethaji Road Circle,
Erode.

+6ccs to M/s.AL.Ganthimathi, Advocate, S.R.No.88124
+1cc to the Government Pleader, S.R.No.88003

W.P.Nos.33557, 33564, 33568,
33570, 33574 & 33577 of 2018

AK(CO)

rrs 24/01/2019