BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.06.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P(MD)Nos.11966 to 11968 of 2018
and
W.M.P(MD)Nos.10929 to 10931 of 2018

W.P(MD)No.11966 of 2018:

Tvl.Immanuel & Co.,
represented by its
Partner,
P.I.Jambert Maturam,
No.4/91-C, Bye Pass Road,
Thoothukudi - 628 001. ... Petitioner

Vs.

1. The Commissioner of Commercial Taxes,
Office of the Principal and Special Commissioner of
Commercial Taxes,
Ezhilagam,
Chepauk,
Chennai - 600 005.

2. The Assistant Commissioner (ST) (FAC)-III,
Tuticorin - III Assessment Circle,
Commercial Taxes Buildings,
No.282-A, Beach Road,
Tuticorin - 628 001. ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for issuance of a writ of Certiorarified Mandamus to call for the records pertaining to the impugned proceedings of the second respondent in TIN:33355922331/2013-14, dated 20.03.2018 and quash the same and direct the second respondent to re-do the assessment after conducting detailed enquiry and by giving adequate opportunity to the petitioner.

For Petitioner : Mr.Raja.Karthikeyan

For Respondent : Mr.S.Dhayalan
Government Advocate

W.P(MD)No.11967 of 2018:

Tvl.Immanuel & Co.,
represented by its
Partner,
P.I.Jambert Maturam,
No.4/91-C, Bye Pass Road,
Thoothukudi - 628 001. ... Petitioner

Vs.

1. The Commissioner of Commercial Taxes,
   Office of the Principal and Special Commissioner of
   Commercial Taxes,
   Ezhilagam,
   Chepauk,
   Chennai - 600 005.

2. The Assistant Commissioner (ST) (FAC)-III,
   Tuticorin - III Assessment Circle,
   Commercial Taxes Buildings,
   No.282-A, Beach Road,
   Tuticorin - 628 001. ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for issuance of a writ of Certiorarified Mandamus to call for the records pertaining to the impugned proceedings of the second respondent in TIN:33355922331/2014-15, dated 20.03.2018 and quash the same and direct the second respondent to re-do the assessment after conducting detailed enquiry and by giving adequate opportunity to the petitioner.

For Petitioner : Mr.Raja.Karthikeyan
For Respondent : Mr.S.Dhayalan
Government Advocate

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W.P(MD)No.11968 of 2018:

Tvl.Immanuel & Co.,
represented by its
Partner,
P.I.Jambert Maturam,
No.4/91-C, Bye Pass Road,
Thoothukudi - 628 001. ... Petitioner

Vs.

1. The Commissioner of Commercial Taxes,
   Office of the Principal and Special Commissioner of
   Commercial Taxes,
   Ezhilagam, Chepauk, Chennai - 600 005.

2. The Assistant Commissioner (ST) (FAC)-III,
Tuticorin - III Assessment Circle,
Commercial Taxes Buildings,
No.282-A, Beach Road,
Tuticorin - 628 001. ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for issuance of a writ of Certiorarified Mandamus to call for the records pertaining to the impugned proceedings of the second respondent in TIN:33355922331/2015-16, dated Ante-as 20.03.2018 and quash the same and direct the second respondent to re-do the assessment after conducting detailed enquiry and by giving adequate opportunity to the petitioner.

For Petitioner : Mr.Raja.Karthikeyan
For Respondent : Mr.S.Dhayalan
Government Advocate

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COMMON ORDER

The grievance of the petitioner is that the details of calculation were not issued in the pre-revision notices and hence, he made his submissions seeking for the details of calculation on 30.05.2017 and thereafter, the second respondent by notice dated 06.03.2018 fixed the date of personal hearing as 21.03.2018. On the very same day, the petitioner appeared before the second respondent and again, reiterated his request by way of written representation to the second respondent which was acknowledged by him on the same day. Despite the same, the impugned orders came to be passed surprisingly on 20.03.2018 even before the date fixed for personal hearing.

2. The learned Counsel for the petitioner would contend that the impugned order is ante-dated.

3. Controverting the said allegations, the learned Government Advocate appearing for the respondents, would submit that by clerical mistake, the date is noted as 20.03.2018, but it was passed after the date of personal hearing.

4. Be that as it may, the impugned orders do not reflect the objections received from the petitioner on 21.03.2018. The impugned orders do not also reflect the notice dated 06.03.2018 issued for personal hearing on 21.03.2018 and failed to consider the objections as well as representations submitted by the petitioner on 21.03.2018. In such circumstances, it gives an impression that the impugned orders are ante-dated with a view to avoid to deal with the objections of the petitioner.

5. Therefore, this Court is inclined to set aside the impugned orders in TIN:33355922331/2013-14, TIN:33355922331/2014-15, and TIN:33355922331/2015-16, dated 20.03.2018 and accordingly, they are set aside. The second respondent is directed to provide the documents required by the petitioner and on receipt of such documents, the petitioner shall submit his reply/objection within a period of fifteen days thereafter. Further, a direction is ssued to the second respondent to pass orders after giving a personal hearing to the petitioner within a period of two months thereafter.

6. In the result, these writ petitions are allowed to the extent indicated above. No costs. Consequently, the connected writ miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Commissioner of Commercial Taxes,
   Office of the Principal and Special Commissioner of Commercial Taxes,
   Ezhilagam,
   Chepauk,
   Chennai - 600 005.

2. The Assistant Commissioner (ST) (FAC)-III,
   Tuticorin - III Assessment Circle,
   Commercial Taxes Buildings,
   No.282-A, Beach Road,
   Tuticorin - 628 001.

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 67133
+ 1 CC TO Mr.B.ROOBAN, ADVOCATE IN SR No. 9589

RSB
TE/JC/SAR-3 : 27/06/2018 : 4P/5C

W.P(MD)Nos.11966 to 11968 of 2018 and
W.M.P(MD)Nos.10929 to 10931 of 2018
06.06.2018