BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.02.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD).Nos.2065 to 2068 of 2018
and
W.M.P.(MD).Nos.2310 to 2317 of 2018

TN Thanga Maaligai LLP,
Represented by its Head Operations
Maheen Abdul Razack,
No.996, South East Rampart (Opposite to Old Bus Stand),
Thanjavur-613 001.
...Petitioner in all Petitions

Vs.

1.The Commercial Tax Officer,
Thanjavur-1, Assessment Circle,
Thanjavur.

2.Appellate Deputy Commissioner (CT),
Commercial Taxes Building,
Thanjavur. ... Respondents in all petitions

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the Assessment orders TIN.Nos.33225004346/2012-2013,33225004346/2013-2014,3225004346/2014-2015 and 33225004346/2015-2016 dated 20.11.2017, passed by the first respondent and the consequential Stay Order Nos.SP.Nos.284/2017, 285/2017, 286/2017 and 287/2017 in VAT Nos.465/2017, 466/2017, 467/2017 , 468/2017 dated 27.12.2017 passed by the second respondent and quash the same as arbitrary and illegal.

In all Writ Petitions
For Petitioners : Mr.Joseph Prabakar
For Respondents : Mr.J.Gunaseelan Muthiah
Additional Government Pleader

COMMON ORDER

Heard the learned counsel on either side.

2.By consent of both the parties, the main Writ Petitions themselves are taken up for final disposal

3.The petitioner is an assessee registered with the first respondent. In respect of four assessments years for which the assessments were deemed to have been completed, the first respondent initiated action under Section 27 (1) (a) of the Tamil Nadu Value Added Tax Act, 2006. Pre revision notices were issued. The petitioner submitted his objections. While submitting his objections, the petitioner also prayed for personal hearing. In the meanwhile, the incumbent changed. The new incumbent straight away passed fresh orders, on assessments without giving any personal hearing to the petitioner. The petitioner filed appeals before the second respondent. He complied with the statutory condition of deposit of 25% of the disputed tax amount. However, the appellate Authority passed the orders impugned in all these Writ Petitions, directed the petitioner to pay 25% of the disputed tax amount and furnish the Bank guarantee/Security for the remaining amount. Interim orders were granted only subject to the fulfilment of the said conditions. Aggrieved by the same, the petitioner is before this Court.

4.It cannot be in dispute that the petitioner did ask for personal hearing. It is also not in dispute that the first respondent had passed the revised orders of assessments, without affording such an opportunity of hearing to the petitioner. Thus, the orders passed by the first respondent to suffer from a prima-facie irregularity.

5.Therefore, this Court is of the view that the Appellate Authority ought to have granted interim stay subject to execution of personal bond, more so, when the petitioner had already deposited 25% of the disputed tax amount in compliance with the statutory requirement. The orders impugned in all these Writ Petitions are accordingly modified.

6.The petitioner shall enjoy the interim stay till the disposal of the appeals by the second respondent, subject to an execution of personal bond for 75% of the disputed tax amount and penalty.

7.All these Writ Petitions are allowed accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To
1.The Commercial Tax Officer,
Thanjavur-I, Assessment Circle,
Thanjavur.

2.Appellate Deputy Commissioner (CT),
Commercial Taxes Building,
Thanjavur.

+4CC to Mr.A.Joseph Prapakar Advocate in SR.No.49753,49754,
49755,49756.

+1CC to Special Government Pleader in SR.No.50192.

TSG
DS/RP/SAR-2 :11.07.2018: 3P/8C

W.P.(MD).Nos.2065 to 2068 of 2018
20.02.2018