BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P.(MD)Nos.8353 to 8357 of 2018
and
W.M.P.(MD)Nos.7914 to 7918 of 2018

Tvl.Maganth Ventures,
Represented by its Proprietor,
M.Nagarajan : Petitioner in all W.Ps.

Vs.

1. The Commissioner of Commercial Taxes,
O/o.The Principal and Special Commissioner of Commercial Taxes,
Ezhilagam, Chepauk,
Chennai-600 005.

2. The Assistant Commissioner (CT)-I,
Dindigul - I Assessment Circle,
Commercial Taxes Building,
Sub-Collector Office Road,
Dindigul-624 001. : Respondent in all W.Ps.

COMMON PRAYER: Writ Petitions are filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the second respondent to provide the copies of the documents relied on in his notice to the petitioner and then to conduct detailed enquiry as requested in the petitioner's reply letter dated 15.06.2017 and request letter dated 25.01.2018 and then to provide the petitioner an opportunity to file his reply/objection before passing any Assessment order pursuant to his notice in Roc.101/2017/A4 (2005-06), Roc.101/2017/A4 (2006-07), Roc.101/2017/A4 (2007-08), Roc.101/2017/A4 (2008-09) and Roc.101/2017/A4 (2009-10), (TIN.33545201371), dated 28.04.2017 respectively.

For Petitioner in all W.Ps. : Mr.Raja.Karthikeyan

For Respondents in all W.Ps. : Mr.S.Dhayalan, Government Advocate

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COMMON ORDER

The petitioner is a granite quarry operator. According to the petitioner, he had suspended his quarrying operations and reported the same to the District Collector concerned. However, somebody else had continued the quarrying operations in his name and transported the granite materials. Immediately, the petitioner made a complaint to the District Collector and the concerned authorities. But, the authorities concerned, instead of taking action against those unscrupulous elements, directed the petitioner to pay tax for excavation of granites and sale turnover and issued pre-assessment notices for the assessment years 2005-06, 2006-07, 2007-08, 2008-09 and 2009-10 respectively. Hence, the petitioner is before this Court with the present Writ Petitions.

2. The learned Government Advocate appearing for the respondents would submit that it is only a notice of demand and the petitioner is entitled to file his objections before the authority concerned. Thus, the Writ Petitions filed by the petitioner are premature and they are liable to be dismissed.

3. I have considered the submissions made on either side.

4. There are certain factual disputes with regard to the calculation of total turnover in respect of granite quarrying. If an exorbitant demand is made, it is always open to the petitioner to make his objections as to the correctness of the calculation. The petitioner cannot maintain a Writ Petition before this Court on factual issues. Therefore, a direction is issued to the petitioner to make his objections before the second respondent, within a period of fifteen days from the date of receipt of a copy of this order and on receipt of objections, the second respondent is directed to consider it on merits, after affording an opportunity of personal hearing to the petitioner and decide the same, within a period of one month thereafter.

5. The Writ Petitions are disposed of with the above direction. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To
1. The Commissioner of Commercial Taxes,
   O/o.The Principal and Special Commissioner of
   Commercial Taxes,
   Ezhilagam, Chepauk,
   Chennai-600 005.

2. The Assistant Commissioner (CT)-I,
   Dindigul - I Assessment Circle,
   Commercial Taxes Building,
   Sub-Collector Office Road,
   Dindigul-624 001.

+1 CC to Mr.B.ROOBAN, Advocate in SR.No.72606
+1 CC to the Special Government Pleader, SR.No.72805

SML
RJ/SKN/RSK/SAR-4/23/07/2018 - 3P/5C

Common Order made in
W.P.(MD)Nos.8353 to 8357 of 2018
Dated: 12.07.2018