BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 21.12.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)Nos.25092, 25093, 25094, 25095 and 25096 of 2018
and
M.P(MD).Nos.22722, 22723, 22724, 22725 and 22726 of 2018

M/s.Rabeek Cement,
rep., by its Proprietor R.Rabeek .. Petitioner in all petitions

Vs.

The State Tax Officer,
Kumbakonam-III Circle,
Commercial Tax Building,
Kumbakonam. ... Respondent in all petitions

COMMON PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records in TIN 33733982413/2011-12, TIN 33733982413/2012-13, TIN 33733982413/2013-14, TIN 33733982413/2014-15 and TIN 33733982413/2015-16 dated 08.10.2018 and to quash the same as illegal, arbitrary and against the principles laid down in judgment of this Court reported in (2017) 99 VST 343 (Mad) in the case of M/s.JKM Graphics Solutions Pvt Ltd., and pass an order afresh after permitting them to file their objection and affording an opportunity of personal hearing.

In all petitions
For Petitioner : Mr.S.Karunakar
For Respondents : Mr.K.Mu.Muthu
Additional Government Pleader

COMMON ORDER

The petitioner is an assessee registered with the respondent. There was an inspection of the petitioner's premises by the Enforcement Wing Officers. Based on the proposal given by the Enforcement Wing, the respondent issued pre-revision notices dated 26.02.2018 for the assessment years 2011-2012 to 2015-2016. The petitioner did not give any objection. Therefore, the respondent was left with no other option, but to confirm the proposals earlier made. Accordingly, the impugned orders came to be passed on 08.10.2018. The said orders are assailed in these writ petitions principally on the ground that the principles laid down by the

Madras High Court in the decision reported in (2017) 99 VST 343 in the case of Tvl.JKM Graphics Solutions Pvt Ltd., Vs. Commercial Tax Officer, Vepery Assessment circle, Chennai), were not followed.

2. It is also admitted that no personal hearing was afforded. It has been held that even if the petitioner does not respond to the notice, an enquiry notice must be sent. However, taking note of the conduct of the petitioner, this Court called upon the learned counsel appearing for the petitioner to submit to certain terms and the learned counsel appearing for the petitioner, on instruction, submitted that the petitioner shall pay 10% of the disputed tax to the respondent, within a period of six weeks from the date of receipt of a copy of this order. If as undertaken before me now, the said 10% of the disputed tax amount is not paid to the respondent with a period of six weeks, the order now passed will stand recalled and writ petitions themselves would stand dismissed. The learned counsel further undertakes that the petitioner will not ask for extension of time and submit his objections within a period of four weeks from the date of receipt of a copy of this order.

3. Subject to this, orders impugned in these writ petitions are set aside and all these writ petitions are allowed. The matter is remitted to the file of the respondent to pass fresh orders in accordance with law. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CO)

/TRUE COPY/

Sub Assistant Registrar

To

The State Tax Officer,
Kumbakonam-III Circle,
Commercial Tax Building,
Kumbakonam.

+1. C.C. to M/S.S.Karunakar, Advocate SR.No.101678
+1 cc to Special Government Pleader, SR.No. 101861

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21.12.2018

RMK
ES/08.03.2019/2P/4C