IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.01.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

WP.Nos.1313, 1318, 1321, 1323, 1329, 1333 & 1335 of 2019
and
WMP.Nos.1473, 1479, 1480, 1483, 1484, 1487 & 1489 of 2019

TEAMLIFTSS IT Systems & Solutions Pvt. Ltd.,
Represented by its Managing Director
Mr.V.Vijayagopal
Sucon's Sivagami Square
2nd Floor, No.147, G.N.Chetty Road,
T.Nagar, Chennai-600 017. ... Petitioner (in all WPs)

vs.

1.The State of Tamil Nadu
Represented by its Secretary to Government
Department of Commercial Taxes
Fort St.George, Beach Road,
Chennai-600 009.

2.The Commissioner of Commercial Taxes
2nd Floor, Ezhilagam, Chepauk
Chennai-600 005.

3.The Joint Commissioner (C.T) Enforcement Wing-1
C.T.Buildings, Greams Road,
Chennai-600 005.

4.The Commercial Tax Officer
Egmore Goods Yard, Enforcement (Central)
Chennai-600 006.

5.The State Tax Officer
Pondy Bazzar Assessment Circle
Chennai-600 028. ... Respondents (in all WPs)

Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order of assessment passed by the 5th respondent in his proceedings in TIN/33891522599/2010-2011, 2011-2012, 2012-2013, 2013-2014, 2014-2015, 2015-2016 & 2016-2017 dated 10.12.2018 received by the petitioner on 17.12.2018 for the assessment years 2010-2011, 2011-2012 2012-2013, 2013-2014, 2014-2015, 2015-2016 & 2016-2017 and quash the same and to direct the respondents to afford an opportunity of personal hearing to put forth the case of the petitioner for the assessment years 2010-2011, 2011-2012, 2012-2013, 2013-2014, 2014-2015, 2015-2016 & 2016-2017 respectively.

For Petitioner : Mr.M.Md.Ibrahim Ali
(in all WPs)

For Respondents : Mr.M.Hariharan
Additional Government Pleader
(in all WPs)

C O M M O N O R D E R

Mr.M.Hariharan, learned Additional Government Pleader takes notice for the respondents. By consent of the parties, these main 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 10.12.2018 passed in respect of assessment years 2010-2011 to 2016-2017 respectively.

3. The main grievance expressed by the petitioner is in twofold, as follows:

(a) Insofar as the assessment year 2010-2011 is concerned, the impugned assessment is barred by limitation. (b) The petitioner is not provided with an opportunity of personal hearing before passing the impugned orders, more particularly, when the Assessing Officer has chosen to impose penalty as well.

4. Mr.M.Md.Ibrahim Ali, learned counsel for the petitioner submitted that had a personal opportunity is given to the petitioner, they would have satisfied the Assessing Officer that the proposals made are incorrect, apart from the fact that one of the assessment order is also barred by limitation (relevant to assessment year 2010-2011).

5. The learned Additional Government Pleader, however, contended that the impugned assessment orders were passed, after considering the reply submitted by the petitioner and therefore, the petitioner cannot contend that they were not given opportunity to defend the proposal. At the same time, the learned Additional Government Pleader admitted the fact that the personal hearing was not given to the petitioner before concluding the assessment.

6. Upon hearing the learned counsels appearing on either side and by considering the admitted position that the impugned assessment orders were passed without affording an opportunity of personal hearing to the petitioner, more particularly, when the Assessing Officer has also chosen to impose penalty, this Court is of the view that the matter needs to be remitted back to the Assessing Officer for re-doing the assessment once again after giving an opportunity of hearing to the petitioner since such requirement is mandatory in view of the Circular No.7/2014 dated 03.02.2014 issued by the office of the Principal Secretary/ Commissioner of Commercial Taxes, Chepauk, Chennai-6. It is open to the petitioner to raise all the contentions as raised in these writ petitions before the Assessing Officer at the time of personal hearing.

7. Accordingly, all these writ petitions are allowed and the impugned assessment orders are set aside. Consequently, the matter is remitted back to the Assessing Officer for re-doing the assessment after giving due opportunity of personal hearing to the petitioner. Such exercise shall be done by the Assessing Officer within a period of six weeks from the date of receipt of a copy of this order. No costs. Connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To
1.The State of Tamil Nadu
Represented by its Secretary to Government
Department of Commercial Taxes
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Chennai-600 009.

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Chennai-600 006.

5.The State Tax Officer
Pondy Bazzar Assessment Circle,
Chennai-600 028.

+1 cc to Mr.M.Mohamed Ibrahim Ali, Advocate Sr.No.4967
+1 cc to The Government Pleader, Sr.No.5670

W.P.Nos. 1313, 1318, 1321, 1323,
1329, 1333 & 1335 of 2019

VBA(CO)
CSL/21.02.2019