IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.12.2019

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.NOS.16586 TO 16589 OF 2013
AND
W.M.P.NOS.1, 2, 1, 2, 1, 2, 1 AND 2 OF 2013

Bright Point India (P) Ltd,
Rep by its Authorised Signatory,
Mr.Mukesh Kapoor,
No.83/1, C/O. Gate Ltd.,
Thiruneermalai Road,
Nagelkeni, Chromepet,
Chennai-44. .. Petitioner in all W.Ps.

vs

1.The Assistant Commissioner (CT)
Koyambedu Assessment Circle,
Chennai-600 107.

2.The Commercial Tax Officer,
Group-II, Enforcement,
Chennai (South),
Greams Road,
Chennai-600 006. .. Respondents in all W.Ps.

Common Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to pass orders, directions, writs in particular a Writ of Certiorari, to call for the records of the first respondent TIN. Nos. 33521344565/06-07, 33521344565/07-08, 33521344565/08-09 and 33521344565/09-10 respectively, quash the impugned order dated 28.03.2013.

For Petitioner (In all W.Ps) : Mr.V.Sundareswaran

For Respondents (In all W.Ps.) : Mr.M.Hariharan, Additional Government Pleader

COMMON ORDER

By this common order, the above writ petitions are being disposed of. The petitioner was issued with separate notices dated 7.2.2013 for the assessment year's 2006-07,2007-08, 2008-09 and 2009-10 respectively. These notices were issued pursuant to a surprise inspection conducted by the officers of the enforcement wing commencing from 06.03.2012 to 21.03.2012.

2. During the course of the inspection, certain defects were pointed out to the petitioner which were apparently not complied by the petitioner and therefore show-cause notices were issued to the petitioner almost 11 months after the completion of the inspection.

3. In these notices dated 7.2.2013, the petitioner was called upon to file its reply within 10 days from the date of receipt of the notice, failing which, proposals contained therein would be confirmed without any further information. By separate representations dated 14.3.2013, the petitioner requested time upto 31.3.2013 for filing its reply/objections.

4. The 1st respondent, however, proceeded to pass all the impugned orders dated 28.03.2013 and confirmed the proposals contained in the notices issued to the petitioner. The petitioner has challenged these orders been on the ground that they were passed without waiting for a reply from the petitioner and without giving an opportunity of being heard.

5. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

6. It is evident that the impugned orders have been passed without awaiting for replies from the petitioner and undue alacrity has been shown in confirming the demand even though the request of the petitioner was reasonable. It appears that the impugned orders have been passed with a view to augment revenue without following the principles of natural justice. The impugned orders have been indeed passed in gross violation of the principles of natural justice.

7. Under the circumstances, the impugned orders are at aside and the cases are remitted back to the 1st respondent to pass speaking orders in the respective notices issued for the

respective assessment years within a period of 3 months from date of receipt of this order.

8. Needless to state, before passing such orders in the denovo proceedings, the petitioner shall be entitled to file their reply and heard in person or through their authorised representative/lawyers.

9. The writ petitions stand disposed with the above observation. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

tta/kkd

To

1.The Assistant Commissioner (CT)
Koyambedu Assessment Circle,
Chennai-600 107.

2.The Commercial Tax Officer,
Group-II, Enforcement,
Chennai (South), Greams Road,
Chennai-600 006.

+1cc to Mr.V.Sundareswaran, Advocate, S.R.No.101772
+1cc to the Special Government Pleader, S.R.No.102262

W.P.Nos.16586 to 16589 of 2013
and
W.M.P.Nos.1, 2, 1, 2, 1, 2, 1 and 2 of 2013

RP(CO)
CS/11/02/2020