IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED : 22.02.2019

CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.NOS.4007, 4010 & 4012 OF 2019
AND
WMP.NOS.4461, 4463 & 4466 OF 2019

Tv.Nazarath Foods (P) Ltd.,
No.25, Vivekanander Street
Thirumoolar Colony
Anna Nagar West
Chennai - 600 040.
Represented by its Managing Director

... Petitioner in all WPs

versus

1.The Assistant Commissioner (ST)
Aminjikarai Assessment Circle
F-50, 2nd Floor, 1st Avenue
Anna Nagar (East)
Chennai - 600 102.

2.The Commercial Tax Officer
Group-VI, Enforcement (North)
C.T.Building, Greams Road
Chennai - 600 006.

... Respondents in all WPs

Prayer in WP.No.4007 of 2019: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus calling for the records relating to the proceeding of the first respondent in TIN 33161023402/2007-08 dated 29.10.2018 and quash the same and direct the first respondent to conduct fresh enquiry and pass assessment order for the year 2007-2008.

Prayer in WP.No.4010 of 2019: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus calling for the records relating to the proceeding of the first respondent in TIN 33161023402/2008-09 dated 29.10.2018 and quash the same and direct the first respondent to conduct fresh enquiry and pass assessment order for the year 2008-2009.

Prayer in WP.No.4012 of 2019: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus calling for the records relating to the proceeding of the first respondent in TIN 33161023402/2009-10 dated 29.10.2018 and quash the same and direct the first respondent to conduct fresh enquiry and pass assessment order for the year 2009-2010

For Petitioner (in all WPs)	:	Mr.Mohan for Mr.B.Ramesshkumaar
For Respondents (in all WPs)	:	Ms.G.Dhanamadhri Government Advocate (Tax)

COMMON ORDER

Ms.G.Dhanamadhri, learned Government Advocate (Tax) has taken notice on behalf of the respondents. By consent of the learned counsels on both sides, these writ petitions are disposed of at the stage of admission itself.

2. These writ petitions are filed challenging the impugned proceedings of the first respondent relating to the periods 2007-2008, 2008-2009 and 2009-2010.

3. The only ground agitated by Mr.Mohan, learned counsel appearing for the petitioner is that no adequate opportunity of personal hearing was afforded to the petitioner by the Assessing Officer to make submissions prior to completion of assessment.

4. A perusal of the assessment orders indicates that the Assessing Officer has issued two revision notices dated 31.01.2018 and 18.09.2018, calling upon the assessee to furnish certain particulars relating to the periods 2007-2008 to 2016-2017. A reply was sent by the petitioner on 20.02.2018 to the revision notice dated 31.01.2018. The second notice dated 18.09.2018 pointed out certain defects in the statements submitted by the petitioner and in relation to which, documents/details were called for. The petitioner vide letter dated 27.09.2018 sought some time to gather the relevant details seeing that the matter related to a batch of ten years, 2006-2007 to 2016-2017 and the records and documents relating to the periods would have to be collected for the details to be culled out. The reply is extracted below :

> "We refer to your notice dt.18.09.2018, received by us personally, regarding uncleared defects noticed during Enforcement Audit for the years 2006-07 to 2016-17. Our auditor who has helped us on VAT Audit, is busily occupied in completing Income tax audit & filing of IT return before 30.09.2018. We regret our inability to furnish the clarification. We regret our inability to furnish the clarification. We request you to kindly give us time for two months submit the clarification related to the audit queries.
>
> We also request you to favour with a personal hearing before passing any order."

However, in the meantime, the impugned orders dated 29.10.2018 came to be passed by the first respondent. This position is not in dispute.

5. In view of the fact that the only ground specifically raised and argued by the petitioner is that the Assessing Authority had proceeded to complete the assessment without granting it the time sought, the petitioner is directed to appear before the first respondent on 05.03.2019 at 2.30 pm. at the first instance. Thereafter, after affording adequate opportunity of personal hearing to the petitioner, the assessments should be completed within a period of four (4) weeks from the date of conclusion of personal hearing.

6. Accordingly, these writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

ds

To:

1. The Assistant Commissioner (ST)
   Aminjikarai Assessment Circle
   F-50, 2nd Floor, 1st Avenue
   Anna Nagar (East)
   Chennai - 600 102.

2. The Commercial Tax Officer
Group-VI, Enforcement (North)
C.T.Building, Greams Road
Chennai - 600 006.

+1cc to Mr.B.Ramesshkumaar, Advocate, S.R.No.17152
+1cc to the Special Government Pleader(T), S.R.No.17127

W.P.Nos.4007, 4010 & 4012 of 2019

NM(Co)
CS/04/03/2019