IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.03.2019

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

WP. Nos.5143, 5148, 5151, 5154, 5157 & 5163 of 2019
and
WMP. Nos.5854, 5855, 5858, 5861, 5866 and 5870 of 2019

WP. No.5143 of 2019

M/s.Metecno (India) Pvt Limited,
Rep by its Authorised Signatory,
Mr.B.Sivananda ... Petitioner in all W.Ps

Vs

The Assistant Commissioner (CT),
Sriperumbudur Assessment Circle,
Varadarajapuram – 600 123. ... Respondent in all W.Ps.

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ or order of direction or any other Writ in the nature Writ of Certiorarified Mandamus to call for the records of the respondent in TIN.33141663419/2011-12,2012-13, 2013-14, 2014-15, 2015-16 & 2016-17 respectively dated 31.12.2018, quash the same and further direct the respondent to re-do the assessment after granting an opportunity of personal as requested by the petitioner.

For Petitioner : Mr.V.Sundareswaran

For Respondent : Ms.G.Dhana Madhri
Government Advocate (Taxes)

C O M M O N O R D E R

The Writ Petitioner has challenged orders of assessment all dated 31.12.2018 for the years from 2011-12 to 2016-17.

2. Ms.Dhanamadri, learned Government Advocate (Taxes) has taken notice for the respondent and at request of both learned counsel this writ petition is disposed of finally at the stage of adjourned admission.

3. The sole ground taken by the learned counsel for the petitioner is that no opportunity of personal hearing has been granted by the respondent. Learned counsel for the respondent was directed to take instructions on this specific allegation on 26.02.2019 and reports today, based on written instructions dated 19.03.2019 that notices were issued on 24.08.2018 for the years from 2011-12 to 2016-17, calling for objections and also affording an opportunity of personal hearing within the notice time of 15 days. According to the Assessing Officer, though letter/reply dated 09.11.2018 was filed by the petitioner, it failed to furnish supporting documents. Further, the opportunity of personal hearing, though granted was not availed of by the petitioner.

4. The petitioner has placed on record notices dated 14.09.2018 calling upon it to respond to proposals from the levy of tax and penalty. The petitioner has been afforded opportunity in the following terms:

> 'However, an opportuniy is hereby given to the dealers to file their objections to the above proposal made in this notice along with documentary evidences, if any, within fifteen days of receipt of this notice, failing which, the porposal made in this notice will be confirmed without further opportunity. They may also avail the opportunity of being heard in person within the above said period of fifteen days.'

The notices do not stipulate a specific date and time for the hearing. It is necessary for the personal hearing to be effective, that the notice issued should be specific, by date and time. This not having been done in the present case, I am of the view that there is a violation of prinicpals of natural justice.

5. Accordingly, the impugned orders are set aside. The petitioner is directed to appear before the respondent on 29.03.2019 (Friday) at 02.30 p.m for personal hearing. Upon conclusion of personal hearing, orders shall be passed de novo taking into account the written as well as oral submissions of the petitioner and Circular No.3/2019 issued by the Special Commissioner, Commercial Taxes. Orders of assessment shall be passed within a period of four (4) weeks from the date of receipt of a copy of this order. No further notice need be issued in this regard by the Assessing Officer.

6. Accordingly, these Writ Petitions are disposed of in the above terms. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rkp

To:

The Assistant Commissioner (CT),
Sriperumbudur Assessment Circle,
Varadarajapuram - 600 123.

+1 cc to Mr.V.Sundareswaran, Advocate, S.R.No.27116

+1 cc to the spl. Government Pleader, S.R.No.27054

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RJ(CO)
SSM(27/03/2019).