IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2019

CORAM :

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. Nos.5999, 6002, 6007, 6011 & 6015 of 2019
and
W.M.P.No.6820, 6824, 6830, 6834, 6839 of 2019

Titanium Equipment and Anode Manufacturing
Company Limited,
Represented by its Chief Operating Officer,
No.262, B/2C, 2A, 2B2, Team House,
GST Salai, Vandalur,
Tamil Nadu - 600048. ... Petitioner in all cases

Vs.

The Assistant Commissioner (ST) (FAC),
Thirukazhukundram Assessment Circle,
No.42, Wahab Nagar,
Thirukazhukundram - 603109. ... Respondent in all cases

Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records comprised in the Impugned Assessment Order dated 22/11/2018 with the reference TIN 33101600003/2011-12, 2012-2013, 2013-2014, 2014-2015, 2015-2016 respectively on the file of the respondent, quash the same and consequently direct the respondent to pass orders afresh, after giving the petitioner an opportunity of personal hearing.

For Petitioner :Ms.Anuradha.P.M.
For Respondent :Mr.V.Haribabu,
Additional Government Pleader (Taxes)

C O M M O N O R D E R

This batch of Writ petitions challenges orders of assessment for the period of 2011-12 to 2015-16 passed under the provisions of the Tamil Nadu Value Added Tax Act (in short 'Act').

2.Heard Ms.Anuradha, learned counsel for the petitioner and Mr.V.Haribabu, learned Additional Government Pleader for the respondent.

3.The main and sole ground on which the assessments have been assailed is that the petitioner has been denied an opportunity of personal hearing as well as an opportunity to make its submissions in regard to the proposals for assessments.

4.Mr.Haribabu, learned Additional Government Pleader has obtained instructions from the assessing officer. He fairly brings to the notice of the Court that the petitioner has filed letter dated 28.09.2018 acknowledging the receipt of revised notice issued by the assessing officer and putting forth its objections to the proposals contained therein. The petitioner has stated in conclusion that some documentary proof in regard to their claim as well as in response to the queries raised by the officer are enclosed with the written statement. This objection has not been filed for the year 2011-2012 but is on record in respect of other assessment years.

5.Admittedly, this reply and the annexures thereto have not been taken into account by the Assessing Officer in finalising the impugned assessments. Moreover, the revised notice dated 27.07.2018 itself merely calls upon the petitioner for a personal hearing along with available evidence on any working day within the aforesaid period. This can hardly be called reasonable opportunity in so far as, opportunity of hearing, to be effective, has to be afforded by fixing a specific date and time when petitioner can appear before the officer and make submissions.

6.It is thus in fitness of things that the present impugned assessments are set aside. The petitioner/authorised representative shall appear before the assessing officer on 12.04.2019 at 10.30 am or on any date proximate to the aforesaid date, which may be convenient to the officer and which may be intimated to the assessee and the process of assessment will be completed within a period of six (6) weeks from the conclusion of personal hearing. No further notice of hearing will be issued to either of the parties.

7.These Writ petitions are disposed of in the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

s/d-
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

sai

To

The Assistant Commissioner (ST)(FAC),
Thirukazhukundram Assessment Circle,
No.42, Wahab Nagar,
Thirukazhukundram - 603109.

+1 CC to Mr.P.Prabhu, Advocate sr 29924.
+1 CC to Spl. Govt. Pleader sr 30035.

W.P. Nos.5999, 6002, 6007,
6011 & 6015 of 2019

LN(CO)
SP(13/05/2019)