IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.04.2019

CORAM
THE HONOURABLE Dr. JUSTICE ANITA SUMANTH

W.P. Nos.7484, 7488, 7493 of 2019
and
WMP. Nos.8145, 8152 and 8157 of 2019

M/s.Hi-Tech Air Power Pvt., Ltd.,
Rep. by its Authorized signatory,
No.12, 1st Floor Olympic Colony,
Anna Nagar West Extn.,
Chennai - 600 050. .. Petitioner in all the W.P's

vs.

The Assistant Commissioner, (ST),
Amaindakarai Assessment Circle,
F-50, 1 Main Road, Anna Nagar East,
Chennai - 600 102. .. Respondent in all the W.P's

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the respondent in TIN 33881462416/2010-11, 2011-2012, 2012-2013 dated 31.01.2019 and to quash the same as illegal and direct the respondent to pass fresh orders after providing an opportunity of personal hearing to the petitioner.

For Petitioner : Mr.C.Bakthasiromoni

For Respondent : Mr.M.Hariharan
Additional Government Pleader

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O R D E R

These writ petitions pertain to the periods 2010-11, 2011-12 and 2012-13, challenging orders of assessment passed under the provisions of Tamil Nadu Value Added Tax Act, 2006 (in short the 'Act') dated 31.01.2019.

2. The short point raised by Mr.C.Bakthasiromoni, learned counsel appearing for the petitioner is this. He states that

there has been co-operation by the petitioner at all stages of assessment. In response to a personal hearing notice issued by the Assessing Officer on 23.01.2019 fixing the personal hearing on 30.01.2019, a letter was filed on 30.01.2019, in person, by the petitioner before the Assessing Officer, seeking time till 28.02.2019, for submission of statutory documents. The reasons cited for the adjournment was that the files have been moved to the Head Office at Bangalore along with other files. The impugned order has however been passed on 31.01.2019 without reference to the request for adjournment.

3. The Officer, in the references contained in the impugned order, makes note of the letter of the petitioner dated 30.01.2019 and thus, the request for extension is clearly before him. In spite of the same, he proceeds to confirm the proposals in the show cause notice, rejecting the request on the ground that the first notice issued to the dealer was on 15.12.2017 and more than a year has elapsed without any response from the petitioner.

4. Having heard both counsels and bearing in mind the limited compass of the matter before me, I set aside the impugned order solely on the ground of violation of principles of natural justice. No doubt a notice has been issued on 15.12.2017 by the Assessing Officer but, there is no justification for the Officer to have waited till 23.01.2019 to issue a notice for personal hearing, after a lapse of more than one year from the notice first issued.

5. In the aforesaid circumstances, it is not justified for him to have denied the one opportunity sought for by the petitioner. The assessments are set aside. The petitioner is directed to appear before the Assessing Officer on 29.04.2019 at 10.30 a.m. along with objections to the proposals in the notice and all documents in support of its claims. No further notice will be issued to the petitioner in this regard. Seeing as the assessments relate to the periods 2010-11, 2011-12 and 2012-13, orders of assessment de novo shall be passed by the Assessing Officer within six(6) weeks from the date of conclusion of personal hearing, after affording full opportunity to the petitioner. The writ petition is disposed of in the above terms. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

tsg/ska

To

The Assistant Commissioner, (ST),
Amaindakarai Assessment Circle,
F-50, 1 Main Road, Anna Nagar East,
Chennai - 600 102.

+1cc to Mr.Baktha Siromoni, Advocate, S.R.No.33084
+1cc to the Government Pleader, S.R.No.32962

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PPA(CO)

RRS(09/05/2019)