IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.09.2019

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THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.Nos.9463, 9467, 9469 & 9471 of 2019
and
WMP.Nos.10049, 10052, 10054, 10055, 10057, 10058, 10061 & 10062 of 2019

W.P.Nos.9463, 9467, 9469 & 9471 of 2019

M/s.Valpro Chemicals & Pharmaceuticals
Rep. by its Partner
309, East Raja Street,
Walajabad,
Kancheepuram - 631 605. ...Petitioner in all WPs

vs.

The Assistant Commissioner (ST)
Kanchipuram Circle
Kanchipuram. ...Respondent in all WPs

Writ Petition No.9463 of 2019 filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the case relating to the impugned order in CST.No.800891/2013-2014 dated 06.12.2018 passed by the respondent and quash the same.

Writ Petition No.9467 of 2019 filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the case relating to the impugned order in TIN.No.33931641887/2013-2014 dated 06.12.2018 passed by the respondent and quash the same.

Writ Petition No.9469 of 2019 filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the case relating to the impugned order in TIN.No.33931641887/2015-2016 dated 06.12.2018 passed by the respondent and quash the same.

Writ Petition No.9471 of 2019 filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the case relating to the impugned order in TIN.No.33931641887/2014-2015 dated 06.12.2018 passed by the respondent and quash the same.

For Petitioner in all W.P.s : Mr.T.Ramesh

For Respondent in all W.P.s : Mrs.G.Dhana Madhri
Government Advocate

C O M M O N   O R D E R

W.P.No.9463 of 2019 is filed challenging the order of assessment dated 06.12.2018 relating to the assessment year 2013-2014 under Central Sales Tax Act, 1956. W.P.Nos.9467, 9469 and 9471 of 2019 are filed challenging the orders of assessment dated 06.12.2018 relating to the assessment years 2013-2014, 2014-2015 and 2015-2016 respectively, passed under the Tamil Nadu Value Added Tax Act, 2006.

2. The petitioner in all these writ petitions is one and the same.

3. Heard Mr.T.Ramesh, learned counsel appearing for the petitioner and Mrs.G.Dhana Madhri, learned Government Advocate appearing for the respondent.

4. The main grievance of the petitioner before this Court is that the impugned orders were passed without providing sufficient opportunity to file reply and also by not providing personal hearing, especially, when the Assessing Officer has chosen to impose penalty. It is contended that the petitioner was not served with notices of proposal and at that point of time, he was hospitalized.

5. On the other hand, it is contended by the learned counsel appearing for the Revenue that the notices of proposal for all the assessment years were sent to the petitioner's address and the same were received by the wife of the Partner of the petitioner. Therefore, it is contended that the petitioner cannot allege as though sufficient opportunity was not given.

6. Perusal of the impugned orders would show that the Assessing Officer confirmed the proposals on the reason that the Assessee did not file their objections to the notices of proposal. Though it is contended that the petitioner was not served with notice, this Court is not inclined to accept such contention on the simple reason that the notice sent by the Assessing Officer seems to have been acknowledged by the wife of the partner of the petitioner and therefore, the petitioner should have been vigilant enough to appear before the Assessing Officer and sought for time, if time granted in the notice was not sufficient. In any event as the assessment orders were passed simply by confirming the proposal only on the reason that the petitioner did not file any reply, based on the present facts and circumstances, this Court is inclined to remit the matter back to the Assessing Officer for redoing the assessment once again on merits and in accordance with law.

7. Accordingly, these Writ Petitions are allowed subject to the following terms and conditions:-

(a) The impugned orders of assessment are set aside and the matter is remitted back to the Assessing Officer for redoing the assessment by treating the impugned orders as the show cause notices issued to the petitioner.

(b) The petitioner shall file their reply/objections to the show cause notices along with 15% of the tax demand made in the impugned orders in each assessment year within a period of two weeks from the date of receipt of a copy of this order.

(c) On filing of such reply along with 15% of payment of Tax as directed supra, the Assessing Officer shall fix the date of personal hearing and inform the same to the petitioner.

(d) On completion of such personal hearing, the Assessing Officer shall pass orders on merits and in accordance with law, within a period of four weeks thereafter.

It is made clear that this Court is not expressing any view on the merits of the claim made by the petitioner, as it is for the Assessing Officer to consider and decide the same. No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To
The Assistant Commissioner (ST)
Kanchipuram Circle
Kanchipuram.

+1cc to Mr.T.Ramesh, Advocate, SR.No.80054
+1cc to the Special Govt.Pleader, (Taxes),Vide Sr.No.80805

W.P.Nos.9463, 9467, 9469 & 9471 of 2019

Kak(18/10/2019)