IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 09.09.2019

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THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.Nos.11757, 11765, 11769, 11774 and 11777 of 2019
and
W.M.P.Nos.11968, 11974, 11978, 11984 and 11988 of 2019

Delphi TVS Technologies Limited,
(formerly known as Delphi-TVS Diesel Systems Limited),
Rep. by its Company Secretary,
Mr.N.Subramaniyan,
Mannur, Thodukadu Post,
Sriperumpudur Taluk,
Kanchipuram District 602 105. ...Petitioner in all WPs

Vs.

1.The Assistant Commissioner (ST),
(Back Year Assessment),
Anna Salai Assessment Circle,
4th Floor, PAPJM Buildings, Annex No.1,
No.1, Greams Road,
Chennai 600 006.

2.The Assistant Commissioner (ST),
Anna Salai Assessment Circle,
Chennai 600 006. ...Respondents in all WPs

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records on the files of the first respondent herein in TIN/33620620017/2012-13, TIN/33620620017/2013-14, TIN/33620620017/2014-15,TIN/33620620017/2015-16 and TIN/33620620017/2016-17 respectively dated 29.03.2019 and quash the same.

For Petitioner in all WPs : Mr.Mr.N.Prasad for Mr.N.Inbarajan

For Respondents in all WPs : Mr.M.Hariharan Additional Government Pleader (T)

C O M M O N   O R D E R

The present writ petitions are filed challenging the orders of assessment passed in respect of assessment years 2012-13 to 2016-17.

2.The case of the petitioner is that the impugned assessment orders were passed in violation of principles of natural justice, since the petitioner was not given time to file their objections in response to the notices of proposals.

3.On the other hand, it is the case of the Revenue that notices of proposal were sent individually to the assessee and since no objection was filed, the Assessing Officer was left with no other option except to pass the orders of assessment.

4.Heard both sides and perused the materials placed before this Court.

5.The point for consideration in these cases is as to whether the assessment orders were passed without giving sufficient opportunity to the petitioner.

6.It is seen that originally notices of proposal dated 21.02.2019 were issued to the assessee in respect of the subject matter of assessment years. It is further seen that on receipt of such notices, the assessee through their letters dated 15.03.2019, requested the Assessing Officer to give them time upto 15th April 2019 for submission of reply by stating that they need to collect more data to justify their time and that they are also preparing GSTR2A reconciliation against their input credit taken in monthly return. It is seen that those letters individually addressed for each assessment year were acknowledged at the office of the assessing officer on 20.03.2019. In support of such acknowledgment, the petitioner has filed the copy of the letter delivery book showing that the letter dated 15.03.2019 for each assessment year was received at the office of the Assessing Officer. In fact, perusal of the assessment orders would also show that the said letter was referred to in the reference column as the fifth reference. However, the Assessing Officer, without giving time for the assessee, has proceeded to pass assessment orders on 29.03.2019 by stating that the assessee failed to file their objection, though sufficient time was given.

7. Admittedly in these cases, the Assessee has sought for time to file their objection through their letter dated 15.03.2019. Such communication was also received by the

Assessing Officer, as found in the impugned order itself. If that be the case, the Assessing Officer is not justified in proceeding to pass the assessment orders without informing the assessee as to whether their request for time to submit their reply has been accepted or rejected. In both events, the Assessing Officer is bound to send a communication to the Assessee and inform the result of the request made by the Assessee. Therefore, in the absence of any such communication from the Assessing Officer, there is a possibility of drawing a reasonable presumption by the assessee exists, as if their request has been accepted. Therefore, the act of the Assessing Officer in not passing any order on the request of the petitioner seeking for time and proceeding to pass the orders of assessment straightway, in my considered view, amounts to violation of principles of natural justice. Admittedly, the orders of assessment were passed simply by confirming the proposals in the absence of any objection from the petitioner. Therefore, this Court is of the view that the matter needs to go back to the Assessing Officer to redo the assessment once again on merits and in accordance with law after getting objection from the petitioner.

8. Accordingly, these writ petitions are allowed and the impugned orders are set aside and the matter is remitted back to the Assessing Officer to redo the assessment after receiving the reply from the petitioner from the date of receipt of a copy of this order. On receipt of such reply, the Assessing Officer shall pass order of assessment on merits and in accordance with law within a period of four weeks thereafter. No costs. The connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

1.The Assistant Commissioner (ST),
(Back Year Assessment),
Anna Salai Assessment Circle,
4th Floor, PAPJM Buildings, Annex No.1,
No.1, Greams Road,
Chennai 600 006.

2.The Assistant Commissioner (ST),
Anna Salai Assessment Circle,
Chennai 600 006.

+1cc to Mr.N.Inbarajan, Advocate SR.78002
+1cc to Spl Government Pleader(Taxes), SR.78093

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11774 and 11777 of 2019

NR(CO)

CB(31/10/2019)