IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 09.09.2019

CORAM

THE HONOURNABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.26980 of 2019

M/s.Tecno Doors Private Ltd.
Plot No.L1, SIPCOT Industrial Park,
Mambakkam, Pondur Village,
Sriperumbudur Taluk,
Kancheepuram,
Tamilnadu - 602 106 ..Petitioner

Vs.

The Commercial tax Officer,
Office of the Assistant Commissioner (CT),
Sriperumbudur Assessment Circle,
Varadarajapuram - 602 103. .. Respondent

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the respondent to forbear from collecting the differential tax amount thereby classifying the sale made by the petitioner as an Inter-sale in the light of the judgment passed by the Hon'ble Supreme Court in the case of Balabhagas Hulaschand vs. State of Orissa, (1976) 37 STC 207 (SC) and the Hon'ble Juridictional High Court in the case WS Retail Services Private Limited vs. Union of India and others, (2017) 9 VST-OL 19(Mad).

For Petitioner : Mr.K.Senguttuvan

For Respondents: Mr.M.Hariharan,
Additional Government Pleader (Tax)

O R D E R

Mr.M.Hariharan, learned Additional Government Pleader takes notice on behalf of the respondent. By consent, the main writ petition itself is taken up for final disposal.

2. The petitioner seeks for Mandamus to direct to forbear the respondent from collecting the differential tax amount thereby classifying the sale made by the petitioner as an Inter-sale in the light of the judgment passed by the Hon'ble Supreme Court in the case of Balabhagas Hulaschand vs. State of Orissa,

(1976) 37 STC 207 (SC) and the Hon'ble Jurisdictional High Court in the case WS Retail Services Private Limited vs. Union of India and others, (2017) 9 VST-OL 19(Mad).

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

4. The relief sought for in this writ petition, in effect, is to prevent the statutory authority from exercising his statutory function of adjudication. Therefore, this Court is not inclined to entertain the prayer as sought for in this writ petition to probe the matter further.

5. Admittedly, the very same petitioner approached this Court earlier and filed Writ Petitions in W.P.Nos.9791 to 9798 of 2018 in respect of the very same subject matter assessment years by seeking various reliefs therein and this Court, by order dated 20.04.2018, disposed of those writ petitions by directing the petitioner to submit comprehensive reply to all the revision notices with further direction to the Assessing Authority to afford an opportunity of personal hearing and independently consider the reply given by the petitioner to the revision notices, uninfluenced by any of the observation made by the enforcement officer and proceed to complete the assessment by passing reasoned order on merits and in accordance with law. It is an admitted fact that in pursuant to the said order, the petitioner made their reply and now, the matter is pending before the Assessing Officer.

6. Learned counsel for the petitioner submitted that the Assessing Officer fixed five different dates for personal hearing for each assessment year and therefore, the petitioner is put to great difficulty in attending the personal hearing for each and every time as the issue involved in all those assessment years is one and the same which can be considered and decided by way of one personal hearing. Therefore, he seeks for a direction to the Assessing Officer to fix a single day for personal hearing in respect of all the assessment years.

7. The learned Additional Government Pleader readily agreed to fix a single day for personal hearing in respect of all the assessment years so as to enable the Assessing Officer to complete the assessment and pass the orders thereon.

8. It is stated by the learned Additional Government Pleader for the respondent that the assessing officer sought for certain documents from the petitioner which they are bound to produce at the time of personal hearing. Needless to state, if any such documents are sought for by the Assessing Officer, the same shall be produced at the time of personal hearing, if such documents are in possession of the petitioner.

9. Considering the above stated facts and circumstances, this writ petition is disposed of without expressing any view on the merits of the claim by the petitioner only with the following direction.

(a) The Assessing Officer shall follow the order already passed by this Court in W.P.Nos.9791 to 9798 of 2018 dated 20.04.2019 strictly, also by fixing the date of personal hearing for all the assessment years on a single day.

(b) The petitioner shall produce the documents sought for by the Assessing Officer at the time of personal hearing, if such documents are in its possession.

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

No costs.

Sd/-
Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

vsi

To

The Commercial tax Officer,
Office of the Assistant Commissioner (CT),
Sriperumbudur Assessment Circle,
Varadarajapuram - 602 103.

+1cc to Mr.K.Senguttuvan, Advocate SR.No.78612

+1cc to Special Government Pleader (Taxes) SR.No.78092

W.P.No.26980 of 2019

SVI(CO)
GMY(04/10/2019)