

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.Nos.31802, 31804, 31809, 31811 & 31816 of 2019
and

W.M.P.Nos.32040, 32041, 32045, 32048 & 32053 of 2019

M/s. Valeo Friction Materials India Pvt. Ltd.,
Represented by its Director : S.Sundar,
No.26, Commander-in-Chief Road,
Egmore,
Chennai - 600008.Petitioner in all WPs

Vs.

The Assistant Commissioner (ST),
Egmore Assessment Circle,
No.88, Mayor Ramanathan Salai, Chetpet,
Chennai - 600031.Respondent in all WPs

Common Prayer : Writ Petition filed under Article 226 of the
Constitution of India praying to issue a Writ of Certiorari to
call for the records relating to the Order passed by the
respondent in TIN/33890441437/2012-13, TIN/33890441437/2013-14,
TIN/33890441437/2014-15, TIN/33890441437/2015-16 and
TIN/33890441437/2016-17 respectively, dated 30.08.2019 (served
on 24.09.2019) and quash the same as contrary to principles of
natural justice, opposed to law, arbitrary and unsustainable.

For Petitioner : Mr.M.D.Mudimannan
(in all WPs)

For Respondent : Mr.M.Hariharan
(in all WPs) Additional Government Pleader (Taxes)

COMMON ORDER

These writ petitions are filed challenging the Orders of
Assessment of the respondent dated 30.08.2019 relevant to the
Assessment Years 2012-13 to 2016-17.

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

3. The grievance of the petitioner before this Court is that the impugned orders were passed without affording sufficient opportunity to the petitioner to place their objections. Thus, it is stated that principles of natural justice is violated. According to the petitioner on receipt of notice of proposal, they appeared before the respondent on 01.04.2019 and sought for 30 days time for filing their reply. The petitioner did not get any reply to the said request from the Assessing Officer, however, the Assessment Orders were passed without granting time to the petitioner to file reply.

4. The learned Additional Government Pleader on the other hand, contended that even though the petitioner sought for 30 days time to file the reply on 01.04.2019, they did not either appear in person or file their objection even after the expiry of the time sought for. Therefore, he contended that the petitioner cannot complain as if the Assessing Officer has violated the principles of natural justice.

5. Perusal of the impugned order would show that the Assessing Officer has admitted that the petitioner had appeared on 01.04.2019 and sought for 30 days time to file their reply. However, it is not seen anywhere in the Assessment Orders, as to whether the said request of the petitioner was considered or not by giving a reply to the same. Therefore, a reasonable presumption was possible for the petitioner to wait for a reply from the Assessing Officer on the request for extension of time.

6. In any event, as the impugned proceedings were made without a reply/objection from the petitioner, this Court, is of the view that an opportunity can be given to them so as to enable the assessee to file their reply to the notice of proposal so as to enable the Assessing Officer to pass fresh orders on merits and in accordance with law.

7. Accordingly, all these writ petitions are allowed and the impugned orders of assessment are set aside. Consequently, the matter is remitted back to the Assessing Officer to redo the assessment under the following terms :-

(a) The petitioner shall file their reply with supportive documents to the notice of proposal within a period of two weeks from the date of receipt of a copy of this order.

(b) On receipt of such reply and supportive documents, the Assessing Officer shall give an opportunity of personal hearing to the petitioner.

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

8. This Court, at this stage, is not expressing any view on the merits of the assessment, since it is for the Assessing Officer to pass the orders on the same on merits and in accordance with law. No costs. Connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (Insp.Cell)

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Sub Assistant Registrar

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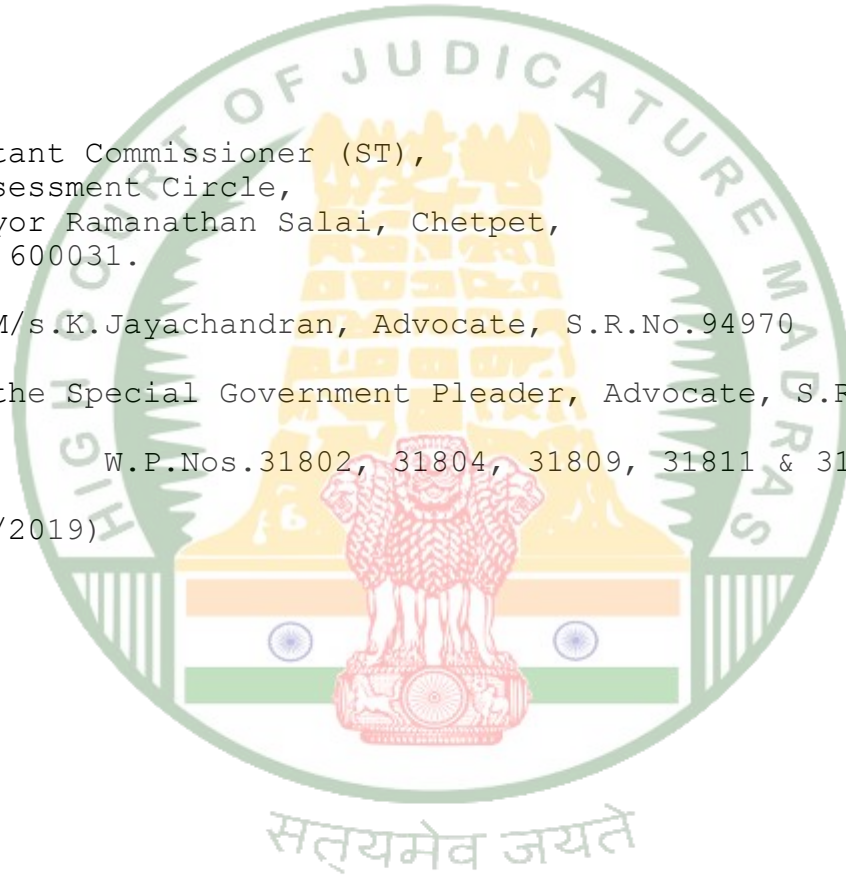
The Assistant Commissioner (ST),
Egmore Assessment Circle,
No.88, Mayor Ramanathan Salai, Chetpet,
Chennai - 600031.

+1 cc to M/s.K.Jayachandran, Advocate, S.R.No.94970

+1 cc to the Special Government Pleader, Advocate, S.R.No.95776

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BP(CO)
SSM(22/11/2019)



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