IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2020

CORAM

THE HONOURABLE Dr. JUSTICE ANITA SUMANTH

W.P.No.11302 of 2018 and
WMP.Nos.13200 & 13201 of 2018

M/s.IJM Concrete Products Pvt. Ltd.,
Rep. by its Company Secretary,
Srinivas Vengala,
18/2, Senneer Kuppam Village,
Avadi Road, Chennai-600 056. ... Petitioner

Vs.

The Assistant Commissioner (CT),
Poonamallee Assessment Circle,
Varadarajapuram. ... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, call for the records of the respondent in TIN:33881663691/2007-08 and quash the order dt.20.04.2018 passed therein.

For Petitioner : Mrs.Hema Muralikrisnnan

For Respondent : Mr.Swarnavel, Government Advocate
for Mrs.G.Dhana Madhri,
Government Advocate

ORDER

The petitioner has challenged order dated 20.04.2018 for the period 2007-2008 in terms of the provisions of the Tamil Nadu Value Added Tax Act, 2006 (in short 'Act').

2.The original orders of assessment dated 15.07.2015 had dealt with a total of nine issues apart from imposing penalty. The orders of assessment were identical and related to the periods 2008-09, 2010-11, 2011-12 and 2012-13. The orders were challenged in WP.Nos.9968 to 9973 of 2014 and by order dated 07.04.2014, set aside putting the petitioner to terms and the respondent Assessing Officer directed to afford opportunity of hearing to the petitioner and thereafter pass orders afresh on merits and in accordance with law.

3.Consequently, orders of assessment for the above five periods and again dealing with nine issues were passed on 15.07.2015 that were challenged once again in WP.Nos.24913 to 24917 of 2015. These writ petitions came to be disposed by order of this Court dated 28.06.2016. A perusal of the aforesaid order indicates that the learned Single Judge has discussed the issue relating to exemption sought on sales to Special Economic Zone (SEZ) and felt that the conclusion of the Assessing Officer required interference. In conclusion, at paragraph-11, he set aside the impugned order of assessment remanding the matter to the respondent for fresh consideration. The respondent is directed to take note of the Notifications referred to by the learned Judge and re-do the assessments in accordance with law. Both the petitioner as well as the Department have interpreted the aforesaid order as to meaning that the orders of assessment, in entirety, were set aside. Thus, I proceed on this admitted basis.

4.Pursuant to order dated 28.06.2016, a notice has been sent only in respect of the period 2007-08 and only on the issue of exemption claimed as sales to SEZ. After considering the reply of the petitioner, this issue has been accepted in favour of the petitioner by the respondent. However, in regard to the remaining eight issues that formed the subject matter of the earlier assessments, he merely reiterates his conclusion in the original order of assessment. Learned counsel for the petitioner states that detailed objections had been filed even at the original instance to the eight issues and the original orders of assessment have in fact been set aside by order dated 07.04.2014. Clearly, no opportunity of hearing has been extended to the petitioner in respect of the remaining eight issues as well as penalty, pursuant to order of this Court dated 28.06.2016. I thus have no choice but to set aside the impugned order of assessment, simply for want of opportunity.

5.Let the petitioner appear before the respondent on Monday, the 17th February, 2020 at 10.30 a.m. without expecting any further notice in this regard. The assessments for the period 2007-08, 2008-09, 2010-11, 2011-12 and 2012-13 (all assessments, baring for the period 2007-08, still pending before the Assessing Authority) shall be taken up for hearing and after affording sufficient opportunity to the petitioner to file response, orders of assessment shall be passed within a period of four weeks from date of conclusion of personal hearing.

6.This writ petition is allowed in the aforesaid terms. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

The Assistant Commissioner (CT),
Poonamallee Assessment Circle,
Varadarajapuram.

+1cc to Mr.B.Raveendran, Advocate Sr.8418
+1cc to the Special Government Pleader Sr.9613

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gj[co]
srg 12/02/2020