BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 21.12.2020
CORAM
THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**
W.P(MD)Nos.9877 to 9881 of 2017
and
W.M.P.(MD)Nos.7570 to 7574 of 2017

M/s.Quantum Coal Energy (P) Limited,
represented by its Managing Director,
P.Vijaykumar,
5-4-40, Plot No.65, Kalaignar 3rd Street,
Sambandar Alangulam,
Madurai - 625 017. :Petitioner in all WPs

Vs.

1.The State of Tamil Nadu,
represented by its Secretary to Government,
Departmental of Commercial Taxes,
Fort St.George, Beach Road, Chennai - 600 009.

2.The Commissioner of Commercial Taxes,
2nd Floor, Elilagam, Chepauk, Chennai - 600 005.

3.The Joint Commissioner (CT),
Enforcement Wing,
C.T.Buildings, Dr.Thangaraj Salai,
Madurai.

4.The Commercial Tax Officer,
Enforcement Wing Group No.5,
C.T.Buildings, Dr.Thangaraj Salai, Madurai.

5.The Assistant Commissioner (CT),
Chokkikulam Assessment Circle,
C.T.Buildings, Dr.Thangaraj Salai,
Madurai - 625 020. : Respondents in all WPs

PRAYER in WP(MD).NO.9877/2017 Writ Petition is filed under Article 226 of Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the notice by the 5th respondent in TIN 33455003977/2011-12, dated 10.03.2017.2017 and the subsequent notice, dated 12.04.2017 and quash the same and to direct the 5th respondent to issue fresh notice after VAT Audit in accordance with Section 64(4) of the VAT Act and the verification of the accounts of the petitioner.

Prayer in WP(MD). 9878/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of

Certiorarified Mandamus to call for the records relating to the Impugned notice by the 5th respondent in TIN 33455003977/2012-13 dt 10.03.2017 (received by the Petitioner on 23.03.2017) and quash the same and to direct the 5th respondent to issue fresh notice after VAT Audit in accordance with section 64(4) of the VAT ACT and the verification of the accounts of the Petitioner by following the decisions of the Honourable High Court Madras and Madurai and after affording an opportunity of personal hearing.

Prayer in WP(MD). 9879/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus to call for the records relating to the notice issued by the 5th respondent in TIN 33455003977/2013-14 dt 10.03.2017 (received by the Petitioner on 23.03.2017) and quash the same and to direct the 5th respondent to issue fresh notice after VAT Audit in accordance with section 64(4) of the VAT ACT and the verification of the accounts of the Petitioner by following the decisions of the Honourable High Court Madras and Madurai and after affording an opportunity of personal hearing.

Prayer in WP(MD). 9880/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus to call for the records relating to the Impugned notice by the 5th respondent in TIN 33455003977/2014-15 dt 10.03.2017 and quash the same and to direct the 4th respondent to issue fresh notice after VAT Audit in accordance with section 64(4) of the VAT ACT and the verification of the accounts of the Petitioner by following the decisions of the Honble High Court Madras and Madurai and after affording an opportunity of personal hearing.

Prayer in WP(MD). 9881/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus to call for the records relating to the notice issued by the 5th respondent in TIN 33455003977/2015-16 dt 10.03.2017 (received by the Petitioner on 23.03.2017) and quash the same and to direct the 5th respondent to issue fresh notice after VAT Audit in accordance with section 64(4) of the VAT ACT and the verification of the accounts of the Petitioner by following the decisions of the Honble High Court Madras and Madurai and after affording an opportunity of personal hearing.

For Petitioner :Mr.A.Chandrasekaran
For Respondents :Mrs.J.Padmavathi Devi
Special Government Pleader

COMMON ORDER

(These Writ Petitions were heard through video conference)

Since the issues involved in these Writ Petitions are one and the same, they are disposed of by a common order.

2.Heard Mr.A.Chandrasekaran, learned Counsel for the petitioner and Mrs.J.Padmavathi Devi, learned Special Government Pleader for the respondents.

3.These Writ Petitions have been filed challenging the impugned notices, all dated 10.03.2017, issued under Section 27 of the TNVAT Act, 2006, against the petitioner.

4.It is settled law that unless and until, a show cause notice has been issued without jurisdiction or without authority under law, it cannot be challenged under Article 226 of Constitution of India. Admittedly, in all these cases, the petitioner has challenged the impugned notice, which is in the nature of a show cause notice issued under Section 27 of the TNVAT Act, 2006 for the assessment years from 2011-12 to 2015-16.

5.In view of the settled position of law, no relief can be granted by this Court as prayed for in these Writ Petitions. However, the respondents will have to necessarily consider the objections raised by the petitioner with regard to the proposal made by them to revise the earlier assessment of the petitioner on merits and in accordance with law.

6.For the foregoing reasons, this Court directs the respondents to consider the objections raised by the petitioner with regard to the proposal made by them to revise the earlier assessment of the petitioner and pass final orders on merits and in accordance with law after conducting a detailed enquiry and by independently making an assessment in the light of the decision of this Court in the case of ***M/s.Madras Granites (P) Limited vs Commercial Tax Officer and others***, reported in ***(2006) 46 STC 642 (Mad)***, within a period of six months from the date of receipt of a copy of this order.

7.With the aforesaid directions, these Writ Petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (P & A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

cmr

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Secretary to Government,
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5.The Assistant Commissioner (CT),
Chokkikulam Assessment Circle,
C.T.Buildings, Dr.Thangaraj Salai,
Madurai - 625 020.

+1cc to Mr.A.Chandrasekaran, Advocate Sr.No.26760

W.P(MD)Nos.9877 to 9881 of 2017

21.12.2020

SE(CO)
NR (06/01/2020) 4P : 7C