IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.02.2021

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THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. Nos.3533, 3540, 3541, 3544, 3547 & 3549 of 2021
and
WMP. Nos.4039, 4041, 4020, 4027, 4031 & 4034 of 2021

M/s.Alchymaras ICM SM Pvt. Ltd.,
represented by its Director,
C/4, III Floor, Chevalier Sivaji Ganesan Road,
T.Nagar, Chennai - 600 017. …Petitioner in the above WPs

Vs

The State Tax Officer,
T.Nagar Assessment Circle,
Chennai - 600 028.
…Respondent in the above WPs

Common Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to Writ of Certiorari to call for the records of the respondent in his proceedings in TIN/33180961796/2011-12, 2012-13, 2013-14, 2014-15, 2015-16 and 2016-17 quash the assesent orders dated 20.01.2021 pased therein.

For Petitioner : Mr.R.L.Ramani,
Senior Counsel for
Mr.B.Raveendran in the above Wps

For Respondent : Mr.Mohammad Shaffiq,
Special Government Pleader
in the above WPs.

C O M M O N O R D E R



The challenge in this batch of writ petitions is to six orders of assessment, passed in terms of the provisions of the Tamil Nadu Value Added Tax Act, 2006 (in short 'Act'), all dated 20.01.2021, for the periods 2011-12 to 2015-16.

2. The sole ground agitated is violation of principles of natural justice. Normally, I am inclined to take expansive view of the matter in order to ensure that the parties are fully heard prior to finalisation of assessment. However, in the

present case, this Court sees no reason to interfere. The following sequence of events presents itself (i) A pre-assessment notice was first issued on 03.10.2018 pursuant to VAT audit conducted in the premises of the petitioner on 10.01.2017. ii) A reminder notice was issued on 14.12.2018 granting 10 days time to the petitioner to file its objections, to which a reply has been filed by the petitioner on 11.02.2019. iii) Notice dated 22.07.2019 was issued thereafter fixing the date of personal hearing as 29.07.2019. (iv) The notice also granted 15 days from 22.07.2019 to file objections. v) To a final notice dated 30.07.2019, a reply was filed by by the petitioner on 09.08.2019 without enclosing supporting documents. vi) In response to the reply dated 09.08.2019, a notice came to be issued on 19.10.2020 by the Officer fixing the date of personal hearing as 27.10.2020. vii) Since the petitioner, vide letter dated 27.10.2020, sought time to submit additional documents, notice dated 04.12.2020 was issued granting one more opportunity of personal hearing and fixing the date of hearing as 14.12.2020. Since the petitioner did not respond to the said notice or avail the personal hearing granted, assessment orders came to be passed on 20.01.2021.

3. The point urged before me is that since notice dated 19.10.2020 refers to certain records filed by the petitioner, the inference to be made is that complete records were available with the respondent. Building on such inference, it is submitted that the records have not been taken into account while passing final assessment orders.

4. However, the petitioner, by letter dated 27.10.2020, has stated as follows:

> With reference to the above we had received your above notice on 22.10.20 only. We object for the orders already proposed in the show Cause Notice. Because we had replied and submitted some supporting documents for the above year.
>
> After Pooja Holidays we are opening our office today only. So we need 15 days time to submit additional documents for the above year.
>
> In this pandemic situation the country was lock downed for 6 Months. After that we had opened our office 1 month back only. We are not having sufficient staff. We are facing so many problems in Management and finance. So consider all this and do the needful in this matter.

5. It appears to me, on a combined reading of notice dated 19.10.2020 and letter of the petitioner dated 27.10.2020, that a part of the documents were available before the Assessing Authority and not the complete records. In final notice dated 04.12.2020, the officer, while granting an opportunity of personal hearing on 14.12.2020 at 11.00 a.m. accedes to the request made in letter dated 27.10.2020, for production of additional documents. On that date, neither did the petitioner appear nor were any materials filed in support of its stand. Hence, the Assessing authority has proceeded to complete the assessment on 20.01.2021.

6. Though the petitioner may well have a case on merits, no legal infirmity calling for interference under Article 226 of the Constitution of India has been made out and the impugned orders are confirmed, relegating the petitioner to appellate or revisional remedy, as it may choose.

7. These Writ Petitions are dismissed. No costs. Connected Miscellaneous Petitions are also dismissed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

The State Tax Officer,
T.Nagar Assessment Circle,
Chennai - 600 028.

+1cc to Mr.B.Raveendran, Advocate Sr.10129
+1cc to the Special Government Pleader Sr.10402



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gj[co]
srg 22/03/2021