IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2021

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. Nos.10532, 10534 and 10536 of 2021
& WMP Nos.11114, 11116, 11121, 11122, 11118 and 11119 of 2021

M/s.Kiran Global Chems Ltd.
Represented by its Director and
Chief Executive Officer
Mr.Charles Navis Rufus,
No.81, New Avadi Road, Kilpauk,
Chennai - 600 010.

…Petitioner in the above W.Ps.

Vs.

1 The Assistant Commissioner (ST)(FAC)
Kilpauk Assessment Circle, No. &-50, First Avenue,
Anna Nagar East, Chennai - 600 102.

2 The Assistant Commissioner (CT)
Kilpauk Assessment Circle.

3 The Deputy Commissioner (CT)
Enforcement (Central), Chennai - 6.

...Respondents in the above W.Ps

Prayer in all WPs: Writ Petitions filed under Article 226 of the Constitution of India praying to issue Writ of Certiorari to call for the impugned proceedings of the first respondent in TIN:33321122351/2013-14, 2014-15 and 2015-16 and quash the orders dated 22.2.2021 as passed in violation of principles of natural justice and against the provisions of the TNVAT Act.

For Petitioner : Mr.P.Rajkumar

For Respondents : Mr.ANR.Jayaprathap
Government Advocate

C O M M O N O R D E R

Mr.ANR.Jayaprathap, learned Government Advocate accepts notice for the respondent and is armed with instructions to proceed with the matter finally, even at the stage of admission.

Hence, by consent of both sides, these Writ Petitions are disposed finally, even at this stage, particularly since the impugned orders are apparently passed in violation of the principles of natural justice.

2. The challenge is to three orders of assessment, all dated 22.02.2021 for the periods 2013-14, 2014-15 and 2015-16, passed in terms of the provisions of the Tamil Nadu Value Added Tax Act, 2006 (in short 'Act'). Pre-assessment notices were initially issued by R2 on 25.04.2016, to which objections have been filed by the petitioner on 21.11.2016. Thereafter, there has been no progress in the matter till a notice was issued by an incumbent officer, arrayed as R1, on 05.02.2021. The notice erroneously states that the assessee has not responded to the earlier pre-assessment notices that were issued by R2. However, the impugned order itself records objections filed on 21.11.2016. This statement is thus palpably erroneous.

3. Be that as it may, R1 extends an opportunity of personal hearing and calls upon the petitioner to appear and file necessary documents in support of its claim on 11.02.2021. In response therewith the petitioner has filed a reply on 10.02.2021 referring to all annexures duly filed before the erstwhile Assessing Officer/R2. The impugned orders have come to be passed on 22.02.2021 without hearing the petitioner and without reference to the objections filed earlier by the petitioner.

4. The dates and events as noticed by me in the preceding paragraphs will serve to establish that the respondent Officer has not adhered to the principles of natural justice in framing the impugned assessments. The time granted to the petitioner to put forth its submissions pursuant to R1 taking charge is woefully insufficient. Moreover, the notices issued prior to framing of assessments call upon the petitioner to file its objections as well as appear, all in the space of a week, which, in my view, is also not sufficient.

5. In the light of the observations as aforesaid, the impugned orders are set aside. For this purpose, the petitioner will appear before the Assessing Officer on Monday, the 10th of May, 2021 at 10.30. a.m., without expecting any further notice in this regard, either virtually or by way of physical hearing, as may be mutually convenient to the parties and also bearing in mind the Standard Operating Procedures that are in force at the relevant point of time. After hearing the petitioner, orders of assessment shall be passed de novo within a period of four (4) weeks from 10.05.2021.

6. These Writ Petitions are disposed as above. No costs. Connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

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To

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