IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.02.2021

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

Writ Petition Nos.8714, 8715 & 8716 of 2020
and
WMP. Nos.10571, 10572 & 10573of 2020

M/s.Indira Projects & Development (T) Pvt. Ltd.,
Represented by its Managing Director
Mr.N.Bhupesh …Petitioner in all WPs

Vs.

The State Tax Officer,
Survey Cell II, Intelligence II,
Chennai-600 006. ...Respondent in all WPs

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari calling for the records of the respondent pertaining to his impugned orders in Ref.No.GSTIN/33AACC15327B1Z5/2017-18 dated 12.02.2020, GSTIN/33AACC15327B1Z5/2018-19 dated 17.02.2020 & GSTIN/ 33AACC15327B1Z5/ 2019-20 dated 17.02.2020and quash the same as illegal and unconstitutional.

In all WPs
For Petitioner : Mr. Mr.R.Venkataraman
Senior Counsel
for Mr.J.Pooventhera Rajan
For Respondent : Mr.Mohammed Shaffiq
Special Government Pleader

C O M M O N O R D E R

Heard the detailed submissions of Mr.R.Venkataraman, learned Senior Counsel appearing for Mr.J.Pooventhera Rajan, learned counsel for the petitioner and Mr.Mohammed Shaffiq, learned Special Government Pleader for the respondent.

2. Orders of assessment for the periods 2017-18, 2018-19 and 2019-20, passed in terms of the provisions of Tamil Nadu Goods and Services Tax Act, 2017 (in short 'Act') are under challenge in these writ petitions. The petitioner is a promoter of apartments, registered under the provisions of the TNGST Act. A surprise inspection was conducted in the premises of the

petitioner on 31.10.2019 in the course of which, certain alleged defects were noticed and statements recorded.

3. A show cause notice was issued for the period 2019-20 in which the Assessing Officer refers to data received from the website of the Registration Department, containing a break up of the development charges and the land cost per square feet. On the basis of the data, the respondent proposed the levy of tax on the development charges along with applicable penalty vide notice dated 24.01.2020.

4. The petitioner appeared before the respondent in response to notices received and filed replies/objections dated 27.01.2020 and 07.02.2020 to the pre-assessment proposed, notwithstanding which the impugned orders of assessments have come to be passed bringing to tax the entire amount representing development charges. There is however, no reference to the petitioners' reply dated 27.01.2020 where the petitioner raises the specific argument that the amount proposed to be brought to tax includes land cost, not liable to tax. Moreover, the discussion in the impugned order is cryptic and I am thus of the view that the impugned proceedings for assessment should be redone after hearing the petitioner and taking into account its reply dated 27.01.2020 as well as any other evidences that may be submitted by it.

5. The impugned orders are set aside and shall be redone de novo after hearing the petitioner, who will appear for this purpose before the Assessing Authority on Thursday, the 25th of February, 2021 at 10.30 a.m. without expecting any further notice in this regard. After considering reply dated 27.01.2020 as well as any other materials that may be circulated, orders of assessment shall be passed within a period of six (6) weeks from the date of first hearing.

6. These writ petitions are allowed in the aforesaid terms. No costs. Connected Miscellaneous Petitions are closed.

Sd/-
Asst.Registrar (CS VIII)

/true copy/
Sub Asst. Registrar

ska/vs

To
The State Tax Officer,
Survey Cell II, Intelligence II,
Chennai-600 006.

+1 cc to Special Government pleader Taxes Advocate sr 8553
+1 cc to Mr.S.Pooventherarajan Advocate sr7792

Writ Petition No.8714, 8715 & 8716 of 2020
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rsl(co)
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