IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.07.2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.27047 of 2018
& W.M.P.No.31447 of 2018

Tamil Nadu Generation and
Distribution Corporation Ltd., (TANGEDCO),
Coimbatore EDC – Metro
Rep. By its Superintending Engineer,
Tatabad, Coimbatore. ..Petitioner

Vs.

The Principal Commissioner,
Office of the Principal Commissioner
of GST & Central Excise,
No.6/7, S.T.D. Street, Race Course,
Coimbatore. ..Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Prohibition, prohibiting the respondent from proceeding further, pursuant to the impugned Order in Original SL.No.04/2018-COMMR. Dated 15.09.2018 issued by the respondent as the same is barred by limitation, without jurisdiction, arbitrary and not sustainable in law.

For Petitioner : Mr.K.Jayachandran
For Respondent : Mr.A.P.Srinivas
(Senior Standing Counsel)

ORDER

The present Writ Petition is filed challenging the Order-in-Original passed by the respondent on 15.09.2018.

2.The contention of the learned counsel for the petitioner is that the petitioner has not submitted their explanation or defence statement and requested time on the ground that some Writ Petitions are pending. However, without granting any further time, the respondent has passed the final order and therefore, the writ petitioner is constrained to move the present Writ Petition.

3.This Court has dealt with the other Writ Petitions, filed quashing the show cause notices issued, and a direction is issued to complete the exercise by providing an opportunity to the writ petitioners.

4.The learned counsel for the petitioner made a submission that in view of the pendency of the Writ Petitions questioning the authority of the respondents demanding Service Tax to be paid by the petitioners, the petitioner has not submitted their defence statement, nor produced any documents, enabling the authority to consider the issues. However, the final order impugned is passed unilaterally without considering any of the points in favour of the petitioner. Thus, the matters are to be remanded back.

5.This Court is of the considered opinion that in all other Writ Petitions where the show cause notices are questioned before this Court, this Court passed an order, directing the petitioners to submit explanations and by following the procedures as contemplated under the Act, the final order is to be passed. In view of the said order, the present Writ Petition is also to be remanded back for a fresh consideration by the authorities.

6.Accordingly, the impugned Order-in-Original, passed by the respondent in proceedings SL.No.04/2018-COMMR. dated 15.09.2018 is quashed and the matter is remanded back to the respondent for fresh consideration by providing an opportunity to the writ petitioner to submit their explanations, documents and evidences and by affording opportunity of personal hearing and thereafter, pass final orders in the manner known to law.

7.In this regard, the petitioner is directed to submit their explanations, documents, evidences, as well as the legal grounds, if any, within a period of eight weeks from the date of receipt of a copy of this order and on receipt of any such explanations, documents and evidences, the respondent is directed to provide opportunity to the petitioner, including personal hearing and thereafter, consider the issues, take a decision and pass final orders as expeditiously as possible.

8.With these directions, the Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

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To

The Principal Commissioner,
Office of the Principal Commissioner
of GST & Central Excise,
No.6/7, S.T.D. Street, Race Course,
Coimbatore.

W.P.No.27047 of 2018

PCH(CO)
CB(02/08/2021)