BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 02.03.2021

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)Nos.5439, 5440, 5482 & 5483 of 2017 and
W.M.P.(MD)Nos.4363, 4364, 4388 & 4389 of 2017

M/s.Royal Granites,
Rep. by its Proprietrix Baby Belkis Mary.F,
17/15B, New Royal House,
TVB Road, Chunkankadai,
Allor Post, Kanyakumari District. ... Petitioner in all petitions

Vs.

The Commercial Tax Officer,
Commercial Tax Building,
Thuckalay. ... Respondent in all petitions

Prayer in W.P(MD)No.5439 of 2017 : Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records in TIN No.33336166006/2012-13 dated 23.12.2016 and quash the same as illegal, arbitrary and without jurisdiction and direct the respondent to pass assessment order afresh after considering the reply dated 28.04.2016 filed by the petitioner including affording an opportunity to examine the relied upon records and also cross examine the vendor in the presence of the respondent.

Prayer in W.P(MD)No.5440 of 2017 : Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records in TIN No.33336166006/2013-14 dated 23.12.2016 and quash the same as illegal, arbitrary and without jurisdiction and direct the respondent to pass assessment order afresh after considering the reply dated 28.04.2016 filed by the petitioner including affording an opportunity to examine the relied upon records and also cross examine the vendor in the presence of the respondent.

Prayer in W.P(MD)No.5482 of 2017 : Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records in TIN No.33336166006/2015-16 dated 23.12.2016 and quash the same and consequently direct the respondent to pass assessment order afresh after furnishing the relied upon documents and affording opportunity of being heard to the petitioner by considering the replies dated 28.04.2016 and 22.07.2016 and pass orders in accordance with law, within such time as may be directed by this Court.

Prayer in W.P(MD)No.5483 of 2017 : Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records in TIN No.33336166006/2014-15 dated 23.12.2016 and quash the same as illegal, arbitrary and against the Judgment of this Court reported in the case of Infiniti Wholesale Limited V. Assistant Commissioner (CT), Koyambedu Assessment Circle, Chennai reported in (2015) 82 VST 457 and further direct the respondent to afford an opportunity of personal hearing and consider the relevant records and representation dated 28.04.2016 and 22.07.2016 and thereafter to pass order afresh.

(in all W.Ps.)

For Petitioner : Mr.S.Karunakar

For Respondent : Mr.G.Arjunan,
Government Advocate.

* * *

C O M M O N O R D E R

Heard the learned counsel on either side.

2. M/s.Royal Granites have filed these four writ petitions. The cases on hand pertain to the assessment years 2012-2013 to 2015-2016. All the impugned orders have been passed under Section 27 of the Tamil Nadu Value Added Tax Act, 2006. The petitioner had given his reply in response to all the four pre-revision notices. The petitioner had asked for personal hearing specifically. But it was not given. That it was the contention raised in ground-(b) in the affidavits filed in support of these writ petitions.

3. In the counter affidavits filed by the respondent, this point has not at all been dealt with. In the impugned orders, it is seen that the authority has nowhere averred that the opportunity of personal hearing was given to the petitioner herein.

4. Therefore, on this sole ground, the orders impugned in these writ petitions are quashed. The writ petitions are allowed. The matter is remitted to the file of the respondent to pass orders afresh in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (RTI Act)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

PMU

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:

The Commercial Tax Officer,
Commercial Tax Building,
Thuckalay.

+1cc to S.Karunakar Advocate in Sr.No.8392

W.P.(MD)Nos.5439, 5440, 5482 & 5483 of 2017

02.03.2021

CN(20.05.2021) 3P 3C