IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.06.2022

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.6184 to 6186 of 2019 and
W.M.P.No.7022, 7024 & 7025 of 2019

Tvl.Textile Testing Laboratory P. Ltd.,
Rep. by Its Director
C.CIBI Karthic
No.12, Kumara Nagar (South) 2nd Street
Tirupur-641 603 ... Petitioner in all WPs

Vs

The Assistant Commissioner (ST)
North Circle, Tiruppur ... Respondent in all WPs

Common Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of certiorari, calling for the records on the files of the respondent in CST.No.1103243/2014-15, CST.No.1103243/2015-16 & CST.No.1103243/2016-17 dated 21.01.2019 and quash the same as being without jurisdiction, authority of law and contrary to the principles of natural justice.

For Petitioner
(in All WPS) : Mr.R.Senniappan

For Respondents: Mr.C.Harsha Raj
(in All WPS) Additional Government Pleader

O R D E R

Heard Mr.R.Senniappan, learned counsel for the petitioner and Mr.C.Harsha Raj, learned Additional Government Pleader for the respondents.

2. The challenge to the impugned orders of assessment passed in terms of the provisions of the Central Sales Tax Act, 1956 (in short 'Act') is on the ground that the petitioner has been denied an opportunity of personal hearing prior to framing of the assessment. The petitioner has, admittedly, been in receipt of several notices, the last dated 24.09.2018 in relation to the proposed levy of penalty under Section 10A of the Act.

3. The petitioner has duly replied on 19.11.2018, reiterating its defence to the proposed levy of penalty. It is to be noted that in notice dated 24.09.2018, the officer, in conclusion requests the assessee to appear in person with relevant documents in respect of the assessee's stand within 15 days from the receipt of the notice.

4. There has been no specific reference to date or time in notice dated 24.09.2018, when the personal hearing has been afforded. In the reply dated 19.11.2018, the petitioner reiterates its defence additionally soliciting a personal hearing of being heard with supporting material. This has, prima facie, not been done in the present case.

5. I have expressed the view that personal hearing, in order to be effective, must be fixed by date and time as it is only when a notice of this nature is received, can assessee make preparations to appear before the authority along with material in support of its defence. That apart, no officer can be expected to be in attendance at all times awaiting the possible appearance of an assessee to argue a case.

6. Thus, it would be impractical for an officer to provide a range of dates, open ended, when the assessee may avail personal hearing. Such opportunity, in my view, does not satisfy the requirement of a reasonable opportunity of hearing, as set out under Section 10A of the Act.

7. For the aforesaid reasons, the impugned orders are set aside. The petitioner is permitted to appear before the Authority on Thursday, the 23 of June, 2022 at 10.30 a.m. without awaiting any further notice. Upon hearing the petitioner and considering documents, if any, that may be furnished, orders shall be passed afresh, in accordance with law within a period of four weeks from the date of personal hearing.

8. These writ petitions are disposed as above. Connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

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To

The Assistant Commissioner (ST)
North Circle, Tiruppur

+1cc to the Special Government Pleader (Taxes), S.R.No.34144

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EV(CO)
SB(28/06/2022)