W.M.P.Nos.19721, 19722, 19723, 19724, 19725, 19726 and 19727 of 2021
in
W.P.Nos.3079, 3081, 3083, 3086, 3089, 3092 and 3094 of 2019

M.SUNDAR, J.,

This common order will dispose of the captioned seven 'writ miscellaneous petitions' ['WMPs']. Captioned seven WMPs have been filed seeking modification of a 'common order dated 25.06.2019 made by me in seven writ petitions and WMPs thereat being W.P.Nos.3079, 3081, 3083, 3086, 3089, 3092 and 3094 of 2019 and W.M.P.Nos.3352, 3354, 3355, 3356, 3357, 3359 and 3360 of 2019' [hereinafter 'said common order' for the sake of convenience and clarity]. When captioned seven WMPs were listed before Hon'ble predecessor Judge, Hon'ble predecessor Judge made proceedings dated 15.11.2021, which reads as follows:

> '*List these petitions before the Hon'ble Mr.Justice M.Sundar.'*

2. As the captioned WMPs have been filed seeking modification of an order made by me, they have since been listed before me albeit under the cause list caption 'FOR BEING MENTIONED'.

3. Mr.Joseph Prabakar, learned counsel for petitioner adverting to said common order, more particularly, paragraph No.15 and sub-paragraphs thereat submits that this Court had granted personal hearing to writ petitioner and fixed the same on 16.07.2019 Tuesday at 12.00 Noon in the office of sole respondent, but the writ petitioner could not avail of the same owing to the circumstances completely beyond the control of writ petitioner and this is articulated in paragraph Nos.16 and 17 of the support affidavit.

4. Learned counsel for petitioner submits that if one more opportunity of personal hearing is given to writ petitioner-company, that will serve the purpose.

5. Mr.NRR.Arun Natarajan, learned Special Government Pleader, (Tax) (Revenue Counsel), who accepted notice on behalf of respondent in all seven WMPs, opposed the request. In opposing the request of petitioner, learned Revenue counsel brought to the notice of this Court an order dated 01.08.2019 made by me in W.P.No.22634 of 2019 and

W.M.P.No.22099 of 2019, wherein it was *inter alia* held that personal hearing for revisional orders under Section 27 of 'Tamil Nadu Value Added Tax Act, 2006, (Tamil Nadu Act No.32 of 2006)' [hereinafter 'TNVAT' for the sake of convenience and clarity] is not statutorily imperative. Learned Revenue counsel also brought to the notice of this Court that this 01.08.2019 order was carried in an appeal by way of intra-Court appeal vide W.A.No.4073 of 2019 and a Hon'ble Division Bench dismissed the writ appeal in and by order dated 06.12.2019 after full contest i.e., after hearing both sides. The sequitur submission of learned Revenue counsel is, after the said common order which is now sought to be modified, law regarding personal hearings in revisional orders under Section 27 of TNVAT Act has been laid down by this Court. Law laid down by this Court is that personal hearing is not statutorily imperative for revisional proceedings under Section 27 of TNVAT Act.

6. In the light of the aforesaid rival submissions, before dealing with the same, this Court deems it appropriate to extract and reproduce paragraph No.15 along with sub-paragraphs (A) to (D) and paragraph No. 16 of said common order, which read as follows:

'15. In the light of the narrative supra, the following order is passed:

(A). The 7 impugned orders, being orders dated 26.12.2018 bearing reference nos. TIN No.33870460557/2009~10, TIN No.33870460557/2010~11, TIN No.33870460557/2011~12, TIN No.33870460557/2012~13, TIN No.33870460557/2013~14, TIN No.33870460557/2014~15, TIN No.33870460557/2015~16 are set aside, solely on the ground that personal hearing not been granted. In other words these impugned orders are not set aside on merits. This Court does not express any opinion or view on the merits of the matter.

(B) With the consent of learned counsel on both sides, personal hearing is now fixed on 16.07.2019 (tuesday) at 12.00 noon. The venue shall be the office of the sole respondent.

(C) The writ petitioner, on instructions, undertakes to avail the personal hearing on the aforesaid date, time and venue and reiterate the objections already sent without expanding the scope of the matter any further. At best, the writ petitioner can file documents to support the objections already sent. Therefore, the scope of the personal hearing and the 4 corners within which the personal hearing shall perambulate has also been set out here. If the writ petitioner does not avail the opportunity of personal hearing on the aforesaid date, time and venue, impugned orders shall stand revived. If the writ petitioner avails the same, the respondent shall embark upon the exercise of redoing the assessment based on the objections already filed and pass revised assessment orders afresh as expeditiously as possible and in any event, within 12 weeks from the date of personal hearing i.e., on or before 08.10.2019.

(D) The revised assessment order passed afresh in the aforesaid manner shall be communicated to the writ petitioner within 7 working days under due acknowledgment in accordance with the rules under the TNVAT Act.

> *16. Accordingly, all these 7 writ petitions are disposed of with the above directions. No costs. Consequently connected miscellaneous petitions are closed.'*

7. Writ petitioner has admittedly missed the bus. Learned Revenue counsel further submits that if the writ petitioner is now given an opportunity of personal hearing, it will set the cat amongst the pigeons and may open the flood gates as there are several similar matters. This submission cannot be brushed aside lightly. This Court, therefore, wanted to know from learned counsel for petitioner/Assessee as to what is the possible benefit which could have enured to petitioner if personal hearing had been availed on 16.07.2019. Learned counsel submitted that the impugned order proceeds on the basis that Forms-R have not been produced whereas Forms-R have to be produced by deductor. Learned counsel further submits that Forms-T produced by the assessee would suffice. Therefore, if personal hearing had been availed by petitioner all that the petitioner could have done is one set of copies of Forms-T could have been resubmitted for consideration of respondent.

8. Therefore, to balance the rights of parties, the following order is passed:

(a) Writ petitioner shall submit one set of Forms-T to respondent within a fortnight from today i.e., on or before 28.02.2022;

(b) There will be no personal hearing;

(c) In the light of sub-paragraph (c) of paragraph No.15, the impugned order which now stands resuscitated/revived will be kept in abeyance for a period of four weeks from today i.e., upto 14.03.2022;

(d) Post 28.02.2022, respondent shall consider Forms-T and either confirm the orders that have been resuscitated or make orders afresh depending on the view taken by Assessing Officer;

(e) In all other aspects, said common order i.e., order dated 25.06.2019 made in seven writ petitions and WMPs namely, W.P.Nos.3079, 3081, 3083, 3086, 3089, 3092 and 3094 of 2019 and W.M.P.Nos.3352, 3354, 3355, 3356, 3357, 3359 and 3360 of 2019 will remain the same;

(f) It is made clear that this order will not serve as a precedent for any other matter as this is treated as a one off case considering the peculiar facts and circumstances of the case and the fervent plea made by learned counsel for petitioner/writ petitioner in this regard;

9. Captioned seven WMPs are disposed of in the aforesaid manner. There shall be no order as to costs.

14.02.2022

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M.SUNDAR, J
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W.M.P.Nos.19721, 19722, 19723, 19724, 19725, 19726 and 19727 of 2021
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W.P.Nos.3079, 3081, 3083, 3086, 3089, 3092 and 3094 of 2019

14.02.2022