IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.07.2023

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.2480 and 2482 of 2021
and
W.M.P.Nos.2797, 2798, 16459 and 16460 of 2021

Tulsyan NEC Limited,
(Represented by its General Manager, Finance,
Mrs.Uma Ramaswamy),
No.6, Sembudoss Street,
Chennai – 600 001.

... Petitioner
in both W.Ps

Vs.

The Assistant Commissioner (ST),
Broadway Assessment Circle,
Integrated Commercial Taxes Building,
3rd Floor, Elephant Gate Bridge Road,
Chennai – 600 003.

... Respondent
in both W.Ps

Prayer in W.P.No.2480 of 2021: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records on the files of the respondent herein in TNGST/0040046/2003-2004 dated 18.11.2020, quash the same.

Prayer in W.P.No.2482 of 2021: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records on the files of the respondent herein in TNGST/0040046/2004-2005 dated 18.11.2020, quash the same.

For Petitioner (In both W.Ps)	:	Mr.N.Chandirasekar for Mr.N.Sriprakash
For Respondent (In both W.Ps)	:	Mr.T.N.C.Kaushik Additional Government Pleader

COMMON ORDER

Although there is a request for pass over, it is noticed that the petitioner has challenged the impugned Assessment Orders dated 18.11.2020 bearing Ref.Nos.TNGST:0040046/2003-2004 and 2004-2005. Reading the documents filed, Court is inclined to dispose the present writ petition.

2. The impugned Assessment Orders precedes a notices dated 03.09.2020 bearing Ref.Nos.TNGST:0040046/2003-2004 and 2004-2005. The petitioner has replied to the aforesaid notices on 23.09.2020. The petitioner had also requested the respondent to give an opportunity of personal hearing. However, the respondent proceeded to pass the impugned orders without giving an opportunity to the petitioner of being heard.

3. It is noticed that the petitioner had earlier filed W.P.No.22305 of 2002 wherein, the petitioner had challenged the validity Entry 6 and Entry 14 of the Schedule to the Tamil Nadu Tax on Entry of Goods into Local Areas Act, 2001. The Writ petition was allowed on 22.03.2007 along with a batch by a Division Bench of this Court.

4. Aggrieved by the same, the State Government has filed an appeal before the Hon'ble Supreme Court wherein, a batch of appeals arising out of similar proceedings in other states were disposed by the Hon'ble Supreme Court in **The State of Tamil Nadu and others** Vs. **ITC Limited and another** in Civil Appeal Nos.11086 to 11089 of 2007 dated 23.08.2017. The Judgment of the Hon'ble Supreme Court in the aforesaid case reads as follows:-

> ***"Leave granted.***
>
> ***In the light of the judgment of a Nine Judge Bench in the case of Jindal Stainless Steel vs. State of Haryana reported in 2016 (11) SCALE 1, the impugned Judgment of the High Court is set aside and it is held that the Tamil Nadu Entry Tax Act is a valid enactment. However, it is made clear that insofar as period from 27.03.2002 to 01.04.2007 is concerned, the State of Tamil Nadu shall not realise the entry tax from the respondent(s) with regard to***

Tobacco product as for this period levy is found to be discriminatory in nature qua the aforesaid product.

The appeals are accordingly disposed of."

5. The only ground on which, the impugned orders are under challenge before this Court is that there is a gross violation of principles of natural justice as the petitioner was not heard before the impugned orders were passed.

6. The learned Additional Government Pleader for the respondent confirms that the petitioner was not heard, although the petitioner's reply was available with the respondent.

7. Being satisfied with the reasons stated by the petitioner in the affidavits that the impugned orders have been passed in violation of principles of natural justice, Court is inclined to quash the impugned orders and remit the cases back to the respondent to pass a speaking order on merits and in accordance with law within a period of 45 days from the date of receipt of a copy of this order. Needless to state, the petitioner shall be heard in person.

8. These Writ Petitions are disposed of with the above observations. No costs. Consequently, the connected Writ Miscellaneous Petitions are closed.

21.07.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No

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To

The Assistant Commissioner (ST),
Broadway Assessment Circle,
Integrated Commercial Taxes Building,
3rd Floor, Elephant Gate Bridge Road,
Chennai – 600 003.

C.SARAVANAN, J.

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