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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 13.06.2023

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.Nos.17413 & 17414 of 2023 and
WMP.Nos.16565 and 16567 of 2023

BRT Spinners Private Limited,
Represented by its Manager director,
S.Gunasekaran,
No.58, Thillai Nagar,
Smt.Lorry Office Backside,
Erode-638 001. ... Petitioner in both WPs

Vs

Assistant Commissioner (ST)
Mettur Road Assessment Circle,
Erode -638 001. ... Respondent in both WPs

Common Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorari, to call for the records of the Notice bearing reference nos. TIN/33873042018/2012-13 and TIN/33873042018/2013-14 dated 04.05.2023 respectively, by the Respondent herein and quash the same.

(In both WPs)
For Petitioner : Mr.Adithya Reddy

For Respondent : Mrs.E.Ranganayaki
Additional Government Pleader

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COMMON ORDER

The present challenge is to a document styled as 'notice' dated 04.05.2023. However, a perusal of the same makes it clear that it is in fact an order passed by the assessing officer disposing the additional rectification petition dated 12.04.2023 filed by the petitioner under Section 84 of the Tamil Nadu Value Added Tax Act, 2006 (in short 'Act').

2.Being an order, it was incumbent upon the authority to issue notice to the petitioner, hear it and thereafter dispose the request for rectification of order of assessment dated 30.08.2019. This has not been done and though no counter has been filed in the matter since the matter is listed for admission only today, Mrs.E.Ranganayaki, learned Additional Government Pleader, who accepted notice for the Commercial Taxes Department has obtained instructions from the officer and confirms this fact fairly.

3.In light of the same, the impugned notice dated 04.05.2023 is set aside. The notice in conclusion calls upon the dealers to discharge tax liability of a sum of Rs.27,739/- in WP.No.17413 of 2023 and Rs.65,215/- in WP.No.17414 of 2023 with interest, as a pre-condition to the officer considering the rectification petition filed earlier touching upon liability for sizing contracts.

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That rectification petition, also filed under Section 84 of the Act is dated 16.03.2023 and is admittedly pending before the officer.

4.In light of the fact that the additional rectification petition dated 12.04.2023 is now pending in light of setting aside of order dated 04.05.2023, the petitioner is permitted to appear before the authority for hearing of both the rectification petition as well as additional rectification petition dated 16.03.2023 and 12.04.2023 respectively on 23.06.2023 at 10.30 a.m. without expecting any notice in this regard to the hearing as scheduled aforesaid. After hearing the petitioner on both the petitions and considering the materials, if any, filed in support of the petitions, let an order be passed within a period of six (6) weeks from date of personal hearing i.e. on or before 04.08.2023 in accordance with law.

5.These writ petitions are disposed. No costs. Connected miscellaneous petitions are closed.

13.06.2023

vs
Index : Yes / No
Speaking order
Neutral Citation : Yes
To
Assistant Commissioner (ST)
Mettur Road Assessment Circle,
Erode -638 001.

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Dr.ANITA SUMANTH, J.

vs

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