IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.Nos.9180 and 9184 of 2024
and
W.M.P.Nos.10210, 10212, 10214, 10220, 10222 & 10223 of 2024

In Both WPs.

Tvl.P.V.Infra Projects
H-74/1, Periyar Nagar
Erode-638 001, Represented
by its Partner Mrs.M.C.Shanmugapriya ... Petitioner

Versus

1. Commercial Tax Officer,
   Brough Road, Erode.

2. Assistant Commissioner (State Tax),
   Brough Road Assessment Circle,
   No.161, Brough Road, First Floor,
   Commercial Taxes Building,
   Erode - 638 001. ... Respondents

Prayer in W.P.No.9180 of 2024: Writ Petition filed under Article 226 of the Constitution of India pleased to issue a Writ of Certiorari calling for the records relating to the impugned order bearing Reference No.ZD331123071792L dated 14.11.2023, passed by the first respondent, quash the same.

PRAYER IN W.P.No.9184 of 2024: Writ Petition filed under Article 226 of the Constitution of India pleased to issue a Writ of Certiorari calling for the records relating to the impugned order bearing Reference No.ZD3311231309101 dated 21.11.2023, passed by the first respondent, quash the same.

In Both WPs.

For Petitioner : Mr. T.R. Ramesh

For Respondents : Mr. C. Harsha Raj,
Additional Government Pleader (Tax)

ORDER

Assessment orders in respect of two distinct assessment periods are challenged in these writ petitions.

2. Upon receipt of intimation from the Assistant Commissioner, the petitioner replied in June 2023. Thereafter, the show cause notice was issued in October 2023 and the impugned order followed in November 2023. Learned counsel for the petitioner submits that only a summary of the show cause notice was received by the petitioner and that the intimation was attached thereto. He further submits that the impugned

order was issued by the Assistant Commissioner (ST)(FAC), whereas, the show cause notice was issued by the Commercial Tax Officer. Consequently, he contends that these proceedings are vitiated by non-issuance of proper show cause notice and issuance of the impugned order by an officer other than the officer who issued the show cause notice.

3. Mr. C. Harsha Raj, learned Additional Government Pleader, accepts notice on behalf of the respondents. He submits that the petitioner was provided sufficient opportunities by way of intimation and show cause notice. He also points out that a personal hearing was offered to the petitioner.

4. The petitioner has placed on record the summary of show cause notice dated 09.10.2023. The said summary does not contains particulars of the issues relating to which the petitioner is being called upon to show cause. Put differently, it is not possible to the petitioner to respond meaningfully by showing cause upon receipt of such summary. In these circumstances, the impugned order warrants interference. Since the primary objection is on the ground that the petitioner did not have an

opportunity to show cause effectively, the impugned order may be treated as a show cause notice by enabling the petitioner to respond thereto.

5. For reasons set out above, W.P.Nos.9180 & 9184 of 2024 are disposed of by holding that the respective impugned orders shall be treated as show cause notices. The petitioner is permitted to submit a reply to each show cause notice within 15 days from the date of receipt of a copy of this order. Upon receipt of the petitioner's reply, the first respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue fresh orders within two months from the date of receipt of the petitioner's reply. As a corollary to the impugned orders being quashed, the consequential garnishee notices are quashed and the bank attachment is raised. There shall be no order as to costs. Consequently, connected miscellaneous petitions are also closed.

04.04.2024

Index : Yes/No
Speaking Order : Yes /No
Neutral Case Citation: Yes /No
klt

To

1. Commercial Tax Officer,
   Brough Road, Erode.

2. Assistant Commissioner (State Tax),
   Brough Road Assessment Circle,
   No.161, Brough Road, First Floor,
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SENTHILKUMAR RAMAMOORTHY,J

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