IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.09.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.Nos.26985 & 26994 of 2024
and
W.M.P.Nos.29496, 29498, 29501, 29507 & 29510 of 2024

Tvl.Sri Navasakthe Paper Boards,
Represented by its Managing Partner,
Mr.K.P.Abirajan,
No.905/14-B, Annamalai Layout,
Opposite Hotel Vignesh,
Erode-638 011. ...Petitioner in both W.P.s'

Vs.

1. The Assistant Commissioner (ST) (FAC),
Tiruchencode (Rural) Circle,
Tiruchencode-637 211.

2. The Branch Manager,
Axis Bank,
100/10, S.S.D.Road,
Tiruchencode-637 211. ... Respondents in both W.P.s'

Prayer in W.P.26985/2024: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records from the files of the 1st Respondent in TIN:33213203595/2010-11 dated 21.11.2022 and quash the same.

Prayer in W.P.26994/2024: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records from the files of the 1st Respondent herein in TIN:33213203595/2011-12, dated 21.11.2022 and quash the same.

Appearance in both W.P.s'

For Petitioner : Mr.N.Chandirasekar

For Respondent 1 : Mr.C.Harsha Raj,
Additional Government Pleader (Taxes)

COMMON ORDER

Since the issue involved and the relief sought in both the Writ Petitions are identical in nature, the same were heard together and disposed of vide this common order.

2. Challenging the impugned orders dated 21.11.2022 passed by the first respondent, the petitioners have filed the present Writ Petitions.

3. Mr.C.Harsha Raj, learned Additional Government Pleader (Taxes) takes notice on behalf of the respondents.

4. By consent of the parties, the main Writ Petition is taken up for

disposal at the admission stage itself.

5. The learned counsel for the petitioner submitted that, as per Section 27(1)(a) of the TNVAT Act, 2006, a revision of assessment can be done only within a period of six years from the date of the deemed assessment order. In the present case, the revision of assessment has been done after the time limit of six years stipulated in the Act for revision of assessment. That too, without affording an opportunity to the petitioner to putforth its case, and therefore, the learned counsel prayed for setting aside the impugned orders mainly on the ground of violation of principles of natural justice.

6. Heard the learned counsel for the petitioner as well as the learned Additional Government Pleader (Taxes) appearing for the first respondent and perused the materials available on record.

7. Considering the submissions made by the learned counsel on either side and upon perusal of the materials, it shows that the impugned orders were passed without affording an opportunity of hearing being given to the petitioner, which results violation of principles of natural justice. Therefore, this Court is

inclined to set aside the impugned orders and remand the matter to the first respondent with the following directions.

(i) The orders impugned herein are set aside and the matter is remanded to the first respondent for fresh consideration.

(ii) The petitioners shall file their reply/objection along with the required documents, if any, within a period of three weeks from the date of receipt of a copy of this order.

(iii) On filing of such reply/objection by the petitioner, the first respondent shall consider the same and issue a 14 days clear notice by fixing the date for personal hearing to the petitioner and thereafter, pass appropriate orders on merits and in accordance with law, after hearing the petitioners, as expeditiously as possible.

(iv) Considering the fact that the impugned orders itself has been set aside, this Court is of the opinion that the attachment made on the Bank account of the petitioner cannot survive any longer and hence, it is lifted. The second respondent is directed to de-freeze the Bank account of the petitioner immediately upon the production of a copy of this order, in case the petitioner's Bank account is attached.

8. With the above directions, these Writ Petitions are disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

18.09.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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To
1. The Assistant Commissioner (ST) (FAC),
Tiruchencode (Rural) Circle,
Tiruchencode-637 211.

2. The Branch Manager,
Axis Bank,
100/10, S.S.D.Road,
Tiruchencode-637 211.

Krishnan Ramasamy,J.,

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