IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.06.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.Nos.11916 to 11920 of 2015

M/s.Perumal Construction,
Rep. By its Proprietor – N.Vinayagam,
Vinayagar Koil Street,
Reddiyur Village,
Ammoor – 632 501.
Walajah Taluk, Vellore District. ... Petitioner
in all the writ petitions

Vs.

The Assistant Commissioner (CT),
Ranipet,
Vellore District. ... Respondent
in all the writ petitions

COMMON PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue writ of certiorari to call for the records on the file of the respondent in his impugned proceedings made in TIN Nos.33354282255/2006-2007, 33354282255/2007-2008, 33354282255/2008-2009, 33354282255/2009-2010 and 33354282255/2010-2011 respectively, dated 02.03.2015, and quash the same.

In all the Writ Petitions:

For Petitioner :Mr.S.Rajasekar

For Respondent :Mr.Manoharan Sundaram, AGP (T)

C O M M O N O R D E R

In all these Writ Petitions, the petitioner, who is the registered dealer under the provisions of Tamil Nadu Value Added Tax Act, 2006, challenged the order of assessment for the assessment years 2006-2007, 2007-2008, 2008-2009, 2009-2010 and 2010-2011.

2. It is the contention of the learned counsel for the petitioner that the respondent has failed to note that the petitioner has filed a declaration in Form Q raising certain question of law. However, without disposing of the same, the respondent ought not to have rejected the Form Q, which is against the provision of Section 23 of the TNVAT Act, 2006. When the respondent has proposed

assessment under Section 22(4) of the Act, he should have followed the mandatory condition warranting the respondent to give personal hearing to the petitioner. Moreover, the petitioner had also filed Writ Petition No.23667 of 2012 challenging the validity of Rule 7(9) of the VAT Rules, which is pending for disposal, therefore, the respondent also acceded to the request of the petitioner to keep the issue in abeyance till the disposal of the above said writ petition. However, without doing so, he contended, the respondent passed the impugned order rejecting Form Q.

3. Per contra, learned Additional Government Pleader (Tax) submitted that the petitioner, without filing return, cannot ask for any relief and therefore, the respondent was constrained to pass the impugned order rejecting Form Q.

4. Heard both sides.

5. Taking into consideration of the fact that the impugned order dated 02.03.2015 for the assessment years 2006-2007, 2007-2008, 2008-2009, 2009-2010 and 2010-2011 was passed without giving an opportunity of personal hearing to the petitioner as contemplated under Section 22(4) of the TNVAT Act, in my considered opinion, the assessment order in respect of the assessment years 2006-2007, 2007-2008, 2008-2009, 2009-2010 and 2010-2011, is liable to be set aside. Secondly, while considering Form Q, though the petitioner has requested to pass the order separately, the same was not considered by the respondent for the reasons best known to him. Therefore, for the reasons cited above, the impugned orders are set aside. Consequently, the writ petitions stand allowed by remitting the matter back to the Assessing Officer to reconsider the issue afresh after providing an opportunity of personal hearing to the petitioner. No Costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rkm

To

The Assistant Commissioner (CT),
Ranipet,
Vellore District.

+5ccs to Mr.M/s. R. Hemalatha, Advocate, S.R.No.26052

+1cc to the Government Pleader, S.R.No.26198

VD(CO)
EU(02/07/2015)

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