IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:09.03.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos.1528 to 1531 of 2015

M/s. N.M.Zackriah&Co.,
rep by its Partner N.Jameel Ahmed,
NMZ House,
No.67, E.V.K.Sampath road
Vepery, Chennai-600 007 ... Petitioner in all cases

Vs.

1.The Assistant Commissioner (CT)
Purasaivakkam Assessment Circle
No.59, Tailors road, Kilpauk
Chennai-600 014

2.The Joint Commissioner (CT)
Enforcement-I, PAPJM Buildings
Greams road, Chennai-600 006

3.The Joint Commissioner (CT)
Chennai (Central), Chennai
PAPJM Buildings, Greams Road
Chennai-600 006 ... Respondents in all cases

common prayer:- Writ Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records file of the first respondent in TIN:33090481841/2009-10,2010-11,2011-12 and 2012-13 respectively dated 05.01.2015 being ultravires of the provisions of the Tamilnadu Value Added Tax Act, 2006.

For Petitioner in all cases : Mr.V.Sundareeswaran

For Respondent both cases : Mr.Kanmani Annamalai, AGP (T)

COMMON ORDER

The petitioner as well as the respondents are one and the same. The issue involved in these writ petitions are identical and common arguments have been advanced by counsel for both sides. Therefore, with the consent of counsel for both sides, the writ petitions are taken up together and are disposed of by this common order.

2. The petitioner has filed these writ petitions questioning the order of assessment as well as the imposition of penalty levied thereon. In these writ petitions, the orders of assessment for the assessment years in TIN.No. 33090481841/2009-10,2010-11,2011-12 and 2012-13 dated 05.01.2015 are called in question.

3. These writ petitions have been filed by the petitioners questioning the orders of assessment passed by the respondent mainly on the ground that before passing such orders, the respondents did not call upon the petitioners to submit their objections and therefore such orders are in violation of the principles of natural justice. Reliance has also been placed on Section 27 of Tamil Nadu Value Added Tax Act,2006 which imposes an obligation on the part of the assessing officer to call for objections by issuing a notice and thereafter final order of assessment shall be passed after affording an opportunity of personal hearing to the dealer. As the respondents failed to comply with the mandate under Section 27 of Tamil Nadu Value Added Tax Act,2006, the petitioners prayed for allowing these writ petitions.

4. On the above contention, this Court heard the learned Additional Government Pleader (Tax) who did not dispute the contention of the petitioners that before passing the order of assessment, the respondent did not comply with the provisions of Section 27 of Tamil Nadu Value Added Tax Act, 2006.

5. Having regard to the above submissions, the impugned orders are liable to be set aside on the ground that before passing such orders, the respondent did not afford an opportunity of hearing to the petitioner/assessee. Accordingly, these writ petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed. The respondent is directed to issue notice to the petitioner/assessee to submit their objections, if any, afford an

opportunity of hearing to them on 10.04.2015 and thereafter pass orders in accordance with law.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

kpr

To

1.The Assistant Commissioner (CT)
Purasaivakkam Assessment Circle
No.59, Tailors road, Kilpauk
Chennai-600 014

2.The Joint Commissioner (CT)
Enforcement-I, PAPJM Buildings
Greams road, Chennai-600 006

3.The Joint Commissioner (CT)
Chennai (Central), Chennai
PAPJM Buildings, Greams Road
Chennai-600 006

+1cc to Mr.V.Sundareswaran, Advocate, S.R.No.12994
+1cc to the Special Government Pleader(Taxes), S.R.No.13398

W.P.Nos.1528 to 1531 of 2015

KGK(CO)
CA(30/03/2015)