IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.06.2015

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.Nos.15565 to 15570 of 2015 and M.P.Nos.1,1,1 & 1/2015

M/s RPN Engineers Pvt. Ltd.,
represented by its Managing Director
Mr..K.Luqmmanbasha
60, 'M' Block, Ninth Street
Anna Nagar East
Chennai 600 102 .. Petitioner in all WPs

-vs-

The Assistant Commissioner (CT)
Amaindakarai Circle
59, Taylors Road - 7th Floor
Chennai 600 010 .. Respondent in all WPs

Petitions under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, to call for the records of the respondent in TIN 33321022635/2008-09, 2009-10, 2010-11, 2011-12, 2012-13 & 2013-14 respectively dated 23.4.2015, quash the same and direct the respondent to furnish the details of purchase turnover as requested in the objection dated 5.5.2014.

For Petitioner :: Mr.R.Kumar in all WPs

For Respondent :: Mr.S.Kanmani Annamalai
Additional Government Pleader
in all WPs

ORDER

These writ petitions have been filed by M/s RPN Engineers Private Limited represented by its Managing Director Mr.P.K.Luqmmanbasha challenging the impugned orders dated 23.4.2015, inter alia, contending that the respondent, having failed to furnish the details of sellers, TIN, invoice number, date, amount etc., is not fair in expecting that detailed objections should have been filed by the petitioner against the proposal. Adding further, he submitted that when the respondent being a quasi judicial authority, merely relying upon the report sent by the enforcement wing, ought not to have refused the personal hearing and that apart should have applied her mind independently. In the present cases, on the basis of proposals, no details of sellers, TIN, invoice number, date, amount etc., were furnished to the petitioner and without furnishing these details, the respondent erroneously confirmed the proposals, which would show that there has been a total violation of the principles of natural justice.

2. Mr.S.Kanmani Annamalai, learned Additional Government Pleader for the respondent is also unable to support the impugned orders, since the respondent has merely confirmed the proposals on the basis of the notings made by the enforcement wing officers. As a matter of fact, when the petitioner, in response to the notices dated 12.3.2014, had submitted their detailed reply dated 5.5.2014 and also brought to the notice of the assessing officer the circular dated 1.4.2015 issued by the Commissioner of Commercial Taxes, wherein clear directions have been issued stating that the assessing officers must mandatorily adhere to the principles of natural justice while carrying out the revision of assessment by enclosing the details of the facts referred to as the basis for the additional tax demand proposed under the notices sent to the assessees, the respondent has completely overlooked the aforesaid directions. In this context, it is pertinent to extract the relevant portion of the circular dated 1.4.2015 as follows:-

> ''It can be noted that unless invoice-wise data of mismatches are provided for each dealer, the dealer under analysis will not be able to come to a conclusion as to specific transactions for which tax is being demanded. Such an act of not providing invoice-wise data of mismatch would be in tantamount to violation of principles of natural justice and will form the simple basis for such notices being struck down by appellate forums and the High Court. Hence, it is expected that assessment officers must mandatorily adhere to the principles of natural justice while carrying out revision of assessment.
>
> Therefore, it is ordered that all notices issued to the dealers must mandatorily enclose details of the facts referred to as the basis for the additional tax demand proposed in the notice as below:
>
> In case of return mismatch-based notices, invoice-wise data of mismatches for each demand must be mandatorily attached to the notice either in print form or as a CD or send as an email (in case it is voluminous).

> Personal hearing, if requested by the dealer, shall be mandatorily ensured and a patient hearing provided to the dealer in order to understand the basis of his contentions and the same should be recorded in the assessment proceedings.
> Orders passed thereafter must be speaking and must address every contention raised by the dealer in clear terms to ensure that the orders are fair and justified not only in appellate forum but also it is felt by the dealers, thereby to which the dealer might not tend recourse.''

3. As the aforesaid directions have been completely violated by the respondent, this Court, accepting the contentions that no personal hearing was given to the petitioner and also no details whatsoever have been given as mentioned above, is of the considered view that the impugned orders have to go. Accordingly, by setting aside the impugned orders, the matters are remitted to the assessing officer for fresh consideration. Needless to mention that the respondent shall provide an opportunity of personal hearing to the petitioner and shall also furnish the details sought for in their reply dated 5.5.2014 in terms of the circular dated 1.4.2015 and thereafter pass appropriate orders on merit and in accordance with law in respect of all the assessment years in question. The writ petitions are allowed. Consequently, M.P.Nos.1 of 2015 are closed. No costs.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

ss
To
The Assistant Commissioner (CT)
Amaindakarai Circle
59, Taylors Road - 7th Floor
Chennai 600 010

1 cc to Mr.R.Kumar , Advocate Sr.No.26245
1 cc to Special Government Pleader(T).Sr.No.26473

W.P.Nos.15565 to 15570 of 2015

lrs(co)
pmk.21.7.2015