IN THE HIGH COURT OF JUDICATURDE AT MADRAS

Dated: 11.06.2015

Coram

The Honourable Mr.JUSTICE T.RAJA

W.P.Nos.16606 and 16607 of 2015
and
M.P.No.1 of 2015

Sri Ram Electronics,
rep.by its Partner,
D.Lakshmanan,
26, Mugamathiar Street,
Panruti. .. Petitioner in both the W.Ps.

vs.

The Commercial Tax Officer,
Panruti (Town),
Panruti .. Respondent in both the W.Ps.

Prayer in W.P.No.16606 of 2015: Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus to call for the records on the file of the respondent in his TIN No.33274481440/2009-10, dated 10.04.2015 and to quash the same, while directing the respondent herein to consider and pass orders on the application dated 16.5.2015 submitted under Section 84 of the Act and acknowledged on 19.5.2015.

Prayer in W.P.No.16607 of 2015: Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus to call for the records on the file of the respondent in his TIN No.33274481440/2010-11, dated 16.04.2015 and to quash the same, while directing the respondent herein to consider and pass orders on the application dated 16.5.2015 submitted under Section 84 of the Act and acknowledged on 19.5.2015.

For Petitioner : Mr.N. Inbarajan

For respondent : Mr.Manoharan Sundaram,
Addl.Govt.Pleader

COMMON ORDER

These writ petitions are directed against the impugned orders issued by the respondent, dated 10.4.2015 and 16.4.2015, bearing TIN:33274481440, for the assessment years 2009-10 and 2010-11, respectively.

2. Heard the learned counsel for the petitioner and Mr.Manoharan Sundaram, the learned Additional Government Pleader, who takes notice on behalf of the respondent and perused the records carefully.

3. The learned counsel for the petitioner would submit that the petitioner being a registered dealer on the file of the respondent herein, has been engaged in buying and selling consumer products like T.V., Refrigerator, Washing Machine and appliances from local registered dealers and effecting re-sale of the said goods purchased locally, for which, they have paid the taxes as per the invoices issued by the said sellers. The turnover is described in the returns and taxes were also paid in accordance with the provisions of the Tamil Nadu Value Added Tax Act, 2006 (hereinafter referred to as 'the Act' in short) right from 2006-07 onwards. Deemed assessments were also completed in accordance with Section 22 (2) of the Act up to the assessment year 2013-14 only. Subsequently there was an inspection by the Enforcement Wing Officers by way of field audit from 10.10.2014, in which certain defects were pointed out. However, they were not accepted by the petitioner at the time of inspection.

3. The learned counsel for the petitioner argued on the ground that the impugned orders are passed in violation of the principles of natural justice. Assailing the impugned orders, the learned counsel would further submit that the respondent has not complied with the statutory requirements under Section 27(1) of the Act, before issuing the impugned orders. Explaining further, he would submit that the impugned orders are passed based on the report of the Enforcement Wing Officers by way of field audit. Before furnishing any particulars, namely, the date and the number of invoices, it would be highly difficult for the petitioner to verify any particular from their books of accounts. Therefore, unless the respondent comes forward to furnish all the copies of invoices, that have been noticed by the Enforcement Wing Officers, relating to the assessment years 2009-10 and 2010-11, the petitioner would not be in a position to verify the correctness of the said invoices and they would be put to great difficulty. He would also submit that when the respondent comes forward to issue the notice of proposal on mere verification of the purchase invoices, produced at the time of inspection by the Enforcement Wing Officers, he should have provided the copies of those invoices to the petitioner to find out the date and number of invoices to verify from the petitioner's books of accounts.

4. It is at this point of time, Mr.Manoharan Sundaram, the learned counsel for the respondent has agreed to provide the copies

of the invoices for the assessment years 2009-10 and 2010-11 within two months from the date of receipt of a copy of this order.

5. In view of the above submission, the impugned orders stand set aside and the respondent is directed to provide the copies of the invoices to the petitioner, for the assessment years 2009-10 and 2010-11, within two months from the date of receipt of a copy of this order and after getting those details, the petitioner shall submit a detailed reply within a period of four weeks thereafter. It is needless to mentioned that thereafter, it is for the respondent to pass appropriate orders on merits and in accordance with law.

6. In the result, the writ petitions are allowed. No costs. Connected miscellaneous petitions are closed.

Msk

Sd/-
Asst.Registrar (CS II )

/true copy/

Sub Asst. Registrar

To
The Commercial Tax Officer,
Panruti (Town),
Panruti.

+1 cc to Mr.N.Inbarajan, Advocate, sr.28683
+1 cc to The Special Government Pleader, sr.28566

W.P.Nos.16606 and 16607 of 2015

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