IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.08.2015

CORAM:

THE HONOURABLE Mr.JUSTICE R.MAHADEVAN

W.P.Nos.17615 and 17616 of 2015
and
M.P.Nos.1 and 2 of 2015

National Trading Company,
represented by its Proprietrix
M.Kamarunnisa ... Petitioner in both the writ petitions
No.631/275, Bazaar Street,
Aatur 636 102.

Vs

The Commercial Tax Officer,
Aatur (Town) Assessment Circle,
Aatur, Salem District. ... Respondent in both the writ petitions.

Writ petitions filed under 226 of the Constitution of India for the issuance of writ of certiorari to call for the records on the files of the respondent in TIN.33733141908/2013-14 and TIN.33733141908/ 2014-15 respectively dated 10.2.2015 and quash the same as being contrary to the principle laid down by this Court in the judgment reported in (2007) 295 ITR 303 (Mad) (V.Selladurai vs. Chief Commissioner of Income-Tax (OSD) and another).

For Petitioner : Mr.R.Senniappan, in both the writ petitions
For Respondent : Mr.Kanmani Annamalai, Addl.Govt.Pleader (Tax)

COMMON ORDER

These writ petitions have been filed, challenging the orders passed by the respondent in TIN.33733141908/2013-14 and TIN.33733141908/ 2014-15 respectively dated 10.02.2015 on the ground that they are without jurisdiction and violative of the principles of natural justice.

2.The petitioner is a registered dealer under TNVAT Act, 2006 and assessee on the file of the respondent herein. The grievance of the petitioner is that though they have submitted monthly return in Form I along with payment of tax, the impugned orders came to be passed, contrary to the statutory provision under Section 22(4) of TNVAT Act.

3.Learned counsel for the petitioner would submit that the petitioner has not been granted an opportunity of personal hearing and if it had been granted, the petitioner would have satisfied the respondent with all the relevant documents. He would further submit that the impugned orders are liable to be quashed on the sole ground that the petitioner was not given an opportunity of personal hearing. It is also the submission of the learned counsel for the petitioner that after completion of the assessment years, the respondent referred only particular months viz., April, 2014 and December, 2014 respectively and did not take into consideration the entire transaction.

4.Heard the learned Additional Government Pleader (Tax) on the above submissions made by the learned counsel for the petitioner.

5.Insofar as reversal of input tax credit is concerned, the authority, after completion of the assessment years, referred a particular month i.e. April, 2014 and December, 2014 respectively. Once the assessment year is over, the entire transaction has to be taken into consideration by the assessing authority and necessary orders to be passed. However, without affording an opportunity of personal hearing, the assessment orders came to be passed straight away. Therefore, this Court is of the view that the impugned orders are liable to be quashed.

6.In view of the above, the impugned assessment orders are set aside and the matter is remitted back to the respondent for passing fresh orders. The petitioner is also directed to file necessary objections with all supporting documents within a period of two weeks from the date of receipt of a copy of this order and on such filing, the authority shall consider the same and pass appropriate orders within four weeks after affording due opportunity to the petitioner.

7.The writ petitions are disposed of with the above direction. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

mmi

To

The Commercial Tax Officer,
Aatur (Town) Assessment Circle,
Aatur, Salem District.

1 cc to Mr. R.Senniappan,, Advocate Sr.No.45482
1 cc to Government Pleader(Taxes).Sr.No.15372

W.P.Nos.17615 and 17616 of 2015

pur(co)pmk.1.9.2015