IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 27.02.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P. Nos.2088 to 2096/2015 and
2339 to 2344 and 2366 to 2368 of 2015

The Bank of Nova Scotia
having its office at
c/o. Sequel Logistics Private Limited
No.111, Appusamy Layout, Red fields
Near Nirmala College
Coimbatore-641 045
(formerly located at
1547, 'Classic Towers'
Trichy road
Coimbatore-641018
represented by Power of Attorney holder
Mr.William D'sa ..Petitioner in all WPs.

Vs.

1. The State of Tamil Nadu
through its Secretary to Government
Department of Sales Tax
Chennai-600 009

2. Assistant Commissioner (CT)
Trichy Road, Assessment Circle
Coimbatore-641018

3.Deputy Commissioner (CT) (ENF)
Trichy Road, Assessment Circle
Coimbatore-641018

4.Joint Commissioner (CT) (ENF)
Trichy Road, Assessment Circle
Coimbatore-641018 ... Respondents in all WPs.

Prayer:- Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorari,
calling for the records of the Order bearing TIN 33431881946/2009-10 dated 18.12.2014 issued by R2 under S.27 of the TNVAT Act for Financial Year 2009-10 ("Impugned Order)" and quash the same.[in WP.2088/15]

Calling for the records of Notice of Assessment year and demand bearing TIN.33431881946/09-10, 2010-11, 2008-09 & 2007-08 respectively and dated 18.12.2014 issued by the respondent 2 in

Form 'O' under the TNVAT Act, 2006 and the rules thereunder for financial years 2009-10, 2010-11, 2008-09 & 2007-08 [Impugned notice of Demand] and quash the same [in WPs.2089, 2092, 2343 & 2367/15];

Calling for the records of notice of penalty bearing TIN.33431881946/2009-10, 2010-11, 2008-09 & 2007-08 respectively and dated 18.12.2014 issued by respondent 2 in Form 'RR' under the TNVAT Act and the rules thereunder, the financial year 2009-10, 2010-11, 2008-09 & 2007-08 [Impugned notice of penalty] and quash the same [in WPs.2090, 2093, 2344 & 2368/15];

Calling for the records of the order bearing TIN.33431881946/2010-11, 2007-08 respectively and dated 18.12.2014 issued by the respondent 2 under section 27 of the TNVAT Act, 2006, for financial year 2010-11, 2007-08, [Impugned order] and quash the same [In WPs.2091 & 2366/15];

Calling for the records of the order bearing TIN 33431881946/2011-12 and dated 19.12.2014 issued by the 2nd respondent under Section 27 of the TNVAT Act, 2006 for financial year 2011-12 [Impugned order] and quash the same.[in WP.2094/15]

Calling for the records of the Notice of Assessment and Demand bearing TIN 33431881946/2011-12 and dated 19.12.14 issued by the 2nd respondent in Form 'O' under the TNVAT 2006 and the rules thereunder for Financial year 2011-12 [impugned notice of Demand] and quash the same; [in WP.2095/15]

Calling for the records of the Notice of penalty bearing TIN 33431881946/201-12 and dated 19.12.14 issued by the 2nd respondent in Form 'RR' under TNVAT 2006 Act and the rules thereunder for Financial year 2011-12 [Impugned notice of penalty] and quash the same [In WP.2096/15]

Calling for the records of the order bearing TIN.33431881946/06-07 and dated 17.12.2014 issued by the 2nd respondent under section 2 of TNVAT Act, 2006 for financial year 2006-07[Impugned order] and quash the same;[in WP.2339/15]

Calling for the records of the notice of Assessment and Demand bearing TIN.3343881946/06-07 and dated 17.12.2014 issued by the 2nd respondent I form 'O' under TNVAT Act 2006 and the rules thereunder for financial year 2006-07 [Impugned notice of Demand] and quash the same[In WP.2340/15];

Calling for the records of notice of penalty bearing TIN.33431881946/2006-07 and dated 17.12.2014 issued by the 2nd respondent in Form 'RR' under the TNVAT Act 2006 and the rules thereunder for financial year 2006-07 [Impugned Notice of penalty and quash the same[In WP.2341/15]

Calling for the records of the order bearing TIN.33431881946/08-09 and dated 18.12.2014 issued by the 2nd respondent under Section 27 of the TNVAT Act, 2006, for financial year 2009-10 [Impugned order] and quash the same;[In WP.2342/15];

For Petitioner : Mr.Karthik Sundaram in all WPs.
For Respondents : Mr.ANR Jayapratap AGP(T) in all WPs.

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 writ petitions namely WP Nos. 2088, 2091, 2094, 2339, 2342 and 2366 of 2015 questioning the order of assessment as well as the imposition of penalty levied thereon.

3. W.P.Nos. 2089, 2090, 2092, 2093, 2095, 2096, 2340, 2341, 2343, 2344, 2367 and 2368 of 2015 have been filed questioning the notices issued by the respondent before imposing penalty. As the assessing officer has passed final orders and also imposed penalty, the relief sought for in W.P.Nos.2089, 2090, 2092, 2093, 2095, 2096, 2340, 2341, 2343, 2344, 2367 and 2368 of 2015 is no longer required to be adjudicated by this Court. Accordingly, W.P. Nos. 2089, 2090, 2092, 2093, 2095, 2096, 2340, 2341, 2343, 2344, 2367 and 2368 of 2015 are closed.

4. Therefore, this Court is only required to consider the claim made by the petitioners in WP Nos. 2088, 2091, 2094, 2339, 2342 and 2366 of 2015. In these writ petitions, the orders of assessment for the assessment years in TIN.No.33431881946/2006-07,2007-08,2008-09,2009-10,2010-11 and 2011-12 are called in question.

5. These writ petitions have been filed by the petitioners questioning the orders of assessment passed by the 2nd respondent mainly on the ground that before passing such orders, the 2nd respondent 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.

6. 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 2nd respondent did not comply with the provisions of Section 27 of Tamil Nadu Value Added Tax Act,2006.

7. Having regard to the above submissions, the impugned orders in WP Nos. 2088, 2091, 2094, 2339, 2342 and 2366 of 2015 are liable to be set aside on the ground that before passing such orders, the 2nd respondent did not afford an opportunity of hearing to the petitioner/assessee. Accordingly, WP Nos. 2088, 2091, 2094, 2339, 2342 and 2366 of 2015 are allowed.No costs. Consequently, connected miscellaneous petitions are closed. The 2nd respondent is directed to issue notice to the petitioner/assessee to submit their objections, if any, afford an opportunity of hearing to them on 23.04.2015 to 30.04.2015 respectively and thereafter pass orders in accordance with law.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

kpr

To

1. The State of Tamil Nadu
through its Secretary to Government
Department of Sales Tax
Chennai-600 009

2. Assistant Commissioner (CT)
Trichy Road, Assessment Circle
Coimbatore-641018

3.Deputy Commissioner (CT) (ENF)
Trichy Road, Assessment Circle
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4.Joint Commissioner (CT) (ENF)
Trichy Road, Assessment Circle
Coimbatore-641018

2 CCs to the Spl. Government Pleader[Taxes] SR NO 11121, 11122

+2ccs to Mr.Karthik Sundaram,Advocate SR.No.10926

W.P. Nos.2088 to 2096/2015 and
2339 to 2344 and
2366 to 2368 of 2015

rv[co]
gp/06.04.2015