IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.Nos.21772 & 21773 of 2015

M/s Jafarali Stores
rep.by its Proprietor - A.Amanullah
No.25, Balu Udaiyar Street
Vandavasi
Tiruvannamalai District ...Petitioner in both the writ petitions

-vs-

The Commercial Tax Officer
Vandavasi
Tiruvannamalai District ...Respondent in both the writ petitions

Petitions under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records on the file of the respondent in impugned proceedings in TIN No.33664602621/2012-13 & 2013-14 dated 28.05.2015, quash the same as illegal and against the provisions of the Act and further to direct the respondent to consider the revised returns filed for February and March, 2013 & February and March, 2014 respectively, in accordance with law.

For Petitioner : Mrs.R.Hemalatha

For Respondent : Mr.S.Kanmani Annamalai
Addl.Government Pleader (Taxes)

ORDER

The petitioner has come to this Court challenging the correctness of the impugned orders dated 28.5.2015 in respect of the assessment years 2012-13 & 2013-14 respectively pertaining to TIN No.33664602621 passed by the respondent, on the sole ground that after receiving the pre-revision notices proposing revision of assessment, the petitioner filed the replies dated 6.4.2015 in respect of the two assessment years. However, within eleven days i.e., on 17.4.2015, the petitioner paid the tax and enclosed the copy of the challan evidencing such payment for both the assessment years and also filed the revised returns dated 25.4.2015 for February & March, 2013 and February & March, 2014 along with due acknowledgment. But, sadly, the respondent, without considering the revised returns filed on 25.4.2015, has wrongly passed the impugned orders only based on the previous web report and confirmed the proposed revision to assess the purchase omission after addition of freight charges @ 5% and gross profit @ 10% arriving at the actual sales suppression of Rs.62,36,871/- & Rs.1,29,24,068/- taxable @ 14.5% and 5% proportionately alleged to be the total and taxable turnover. Therefore, the sole grievance of the petitioner is that when the petitioner on their own filed the revised returns dated 25.4.2015 within a reasonable time from the date of filing the replies dated 6.4.2015, in all fairness, the respondent, being a quasi judicial authority, should have considered the correctness of the revised returns. As he has not done so, the petitioner is entitled to come to this Court challenging the correctness of the impugned assessment orders.

2. Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Taxes) for the respondent, taking note of the fact that the petitioner has filed the revised returns on 25.4.2015 for February & March, 2013 and February & March, 2014 along with the challans for payment of tax, the respondent, before passing the orders on revision, should have considered the same.

3. Recording the above submission, this Court, by setting aside the impugned orders, hereby directs the respondent to reconsider the case of the petitioner on the basis of the revised returns filed for February & March, 2013 and February & March, 2014 in respect of the two assessment years in question on merit and in accordance with law expeditiously. Accordingly, the writ petitions are allowed. Consequently, M.P.Nos.1 & 2 of 2015 are closed. No costs.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

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To

The Commercial Tax Officer
Vandavasi
Tiruvannamalai District

2CCs to Mrs.R.Hemalatha, Advocate, SR 37457

1CC to Spl.Government Pleader (Taxes), SR 37597

W.P.Nos.21772 & 21773 of 2015

KV [CO]
PSI 19.08.2015