IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.02.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos.2290 to 2295 of 2015

and M.P.Nos.1 to 1 of 2015

S.E.Ameer John ...Petitioner in all the WPs.

Vs

Assistant Commissioner (CT)
Shevapet Circle,
Salem. ..Respondent in all the Wps.

COMMON Prayer : Writ Petitions have been filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the impugned proceedings of the respondent in TIN : 33432640098/ for the assessment years from 2008-09 to 2013-14 respectively dated 02.01.2015 and quash the same and directing the respondent to re-do the assessment after giving personal hearing to the petitioner.

For Petitioner :M/s.R.Sivaraman

For Respondent :Mr.A.R.Jayapratap
Government Advocate (Tax)

C O M M O N   O R D E R

With the consent on either side the Writ Petitions are taken up for final disposal at the admission stage itself.

2.The petitioner has come forward with the aforesaid Writ Petitions challenging the impugned proceedings of the respondent in TIN : 33432640098 for the assessment years from 2008-09 to 2013-14 dated 02.01.2015 on the ground that no opportunity of personal hearing was granted to the petitioner.

3.According to the petitioner he is engaged in the business of yarn and registered a dealer under Tamilnadu Value Added Tax Act, 2006. The petitioner has received a notice dated 05.12.2014 from the respondent, wherein the respondent has proposed to reverse the Input

Tax Credit (ITC)under Section 27 of the TNVAT Act on the ground that the purchases are reported in excess than the corresponding sales reported by the sellers as per web-site cross verification. The petitioner has issued reply notice dated 25.12.2014 and he requested the Assessing Officer to grant twenty days time to file reply and other details. The respondent without considering the objections, by order dated 02.01.2015 in TIN/33432640098 for the assessment years from 2008-09 to 2013-14 passed an order, confirming the turnover proposed in the pre-revision notice.

4.The learned counsel for the petitioner prays to quash the impugned proceedings only on the ground that no opportunity was given to the petitioner and he has sought for twenty days time to submit his documents which has been referred to in the impugned order, even though the respondent has not given any opportunity of personal hearing to the petitioner.

5. The learned Government Advocate for the respondent submitted that the petitioner has requested further 20 days time. But from the issuance of notice 30 days time was already over, in all these cases. It is nothing, but to drag on the matter, the petitioner has approached by this Court. Hence the respondent to reject the prayer made by the petitioner and confirm the proposal already made.

6. The petitioner has sought for twenty days time to submit his documents and however, after affording an opportunity, straight away the impugned order has been passed for the aforesaid assessment years. Since personal hearing was not given by the authority, the impugned order is liable to be quashed. Accordingly, the same is quashed and the matter is remitted to the Authority concerned, who shall hear the petitioner and pass appropriate orders on merits and in accordance with law.

7. Accordingly, the Petitioner is directed to appear before the Authority **on 16th March, 2015*** and make his submissions both oral and written and also produce all the relevant documents, if any, in support of his case and on receipt of the same, the authority shall pass orders taking into consideration the observation stated supra. In case the petitioner fails to avail the opportunity on **16.03.2015,*** it is open to the respondent to pass appropriate orders on merits and in accordance with law within a period of four weeks from the date of his appearance without being influenced by the earlier order passed by the Authority, which has been set aside by this Court in all these Writ Petitions.

Accordingly, all these Writ Petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Asst.Registrar
dt. 19.02.2015

Amended as per the order of
this court dated 25.02.2015 made in
W.P.No.2290 to 2295 of 2015 and
M.P.Nos.1 to 1 of 2015

/True Copy/

Sd/-
Asst.Registrar
dt. 02.03.15

Sub Asst. Registrar

kkd

To

Assistant Commissioner (CT)
Shevapet Circle,
Salem.

To be subsituted for
orders already
despatched on
on 23.02.2015

+6 CC to Mr.R.Sivaraman, Advocate SR.10707
+1 CC to Special Government Pleader, Taxes,
High Court, Madras, SR.10471

W.P.Nos.2290 to 2295 of 2015

and M.P.Nos.1 to 1 of 2015

BVR(CO)
EU 02/03/2015
Eu 2.03.2015