IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.10.2015

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.Nos.23955 to 23957 of 2015
and
M.P.Nos.1 and 2 of 2015 (3 Nos. each)

Tvl.Chellsons Offset Press rep. by
its Power Agent C.Sunder Singh .. Petitioner in all the W.Ps

Vs

The Assistant Commissioner (CT),
Tondiarpet Assessment Circle,
Kuralagam Annexe Building,
Chennai - 1. .. Respondent in all the W.Ps

Petitions filed under Article 226 of the Constitution of India to issue a Writ of certiorari to call for the records relating to the proceedings of the respondent in TIN Nos.33721201962/2009-10, 33721201962/2010-11 and 33721201962/2011-12 dated 17.04.2015 respectively and quash the same.

For Petitioner : Mr.C.M.Mohanasundaram
for M/s.M.S.Associates in all the W.Ps

For Respondent : Mr.V.Haribabu,
Addl. Govt. Pleader (T) in all the W.Ps

COMMON ORDER

Challenging the orders of the respondent dated 17.04.2015, whereby penalty has been levied under Section 27(4) of TNVAT Act, 2006, the petitioner has come forward with these petitions.

2.The petitioner is a registered dealer on the file of the respondent and effected local purchase and local sales. The petitioner has been paying tax regularly and the respondent, by notice dated 14.11.2013, proposed to reverse ITC on the ground that the petitioner effected purchases from stopped business/non-assessee dealers/unregistered dealers/registration cancelled dealers. By reply dated 29.11.2013, the petitioner stated that it has wrongly mentioned the old TIN number of M/s.Indian Paint Industries in their returns as the vendor. The vendor of the petitioner, due to some personal issue, surrendered the old TIN number and obtained a new one but due to oversight, the same has not been updated in the computer. According to the petitioner, on an earlier occasion also, they received notice dated 28.11.2011 from the respondent regarding the same issue and submitted the explanation with a request to rectify the clerical error. Once again, after two years, i.e. on 17.03.2015, notices were issued for the assessment years 2009-2010, 2010-2011 and 2011-2012 to which, the petitioner submitted the explanation on 20.03.2015. The grievance of the petitioner is that without considering the explanation and without providing an opportunity of personal hearing, the respondent has passed the impugned orders, reversing ITC for the years 2009-2010, 2010-2011 and 2011-2012 on the ground of purchase from registration cancelled dealers. Hence the present writ petitions.

3.Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader(T) appearing for the respondent.

4.Learned counsel for the petitioner would submit that the petitioner has not been provided reasonable opportunity before passing the impugned orders and the objections filed by the petitioner have also not been considered by the respondent. He would further submit that though TIN number has been mentioned in the sale invoice of the petitioner, the respondent neglected the same.

5.Though it is the case of the respondent that the petitioner has not filed reply to the notices issued by the Department, from the photo copy of the Letter Delivery Book produced by the learned counsel for the petitioner, it could be seen that the objections along with the correct details relating to registration certificate of the seller was received by the assessing authority. On the other hand, in the impugned orders, it was wrongly mentioned as if the petitioner has not filed any objection.

6.The learned Additional Government Pleader, on instructions, fairly submitted that the petitioner had given all the details relating to the correct registration certificate number of the seller. The said submission is recorded.

7.In view of the above submission, the impugned orders are set aside and the matters are remanded back to the respondent for fresh consideration and passing appropriate orders. Such exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order.

8.In the result, the writ petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

mmi

To

The Assistant Commissioner (CT),
Tondiarpet Assessment Circle,
Kuralagam Annexe Building,
Chennai - 1.

3 ccs to M/s. M.S. Associates, Advocates, Sr. 55036
1 cc tp Spl.Government Pleader, Sr. 55377

W.P.Nos.23955 to 23957 of 2015

MG (CO)
kk 20/10