IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2015

CORAM:

THE HONOURABLE Mr.JUSTICE R.MAHADEVAN

W.P.Nos.26580 to 26583 of 2015
and
M.P.Nos.1, 1, 1 and 1 of 2015

M/s.D.V.Power World,Vellore
rep. by its Partner D.Raja ... Petitioner in all the W.Ps

Vs

The Commercial Tax Officer (FAC),
Vellore (South),
Commercial Taxes Buildings,
Fort Round, Vellore. ...Respondent in all the W.Ps

Writ petitions filed under 226 of the Constitution of India for the issuance of writ of certiorari to call for the records of the respondent in his proceedings in TIN 33054223541/2011-12, TIN 33054223541/2012-13, TIN 33054223541/2013-14 and TIN 33054223541/2014-15 respectively dated 22.05.2015 and quash the same as illegal.

For Petitioner in all WPs : Mr.S.Ramanathan in all the W.Ps

For Respondent in all WPs : Mr.S.Manoharan Sundaram, Addl. Govt. Pleader (T) in all the W.Ps

COMMON ORDER

By consent, the writ petitions are taken up for final disposal.

2.Petitioner has filed these writ petitions, challenging the orders of the respondent in TIN 33054223541/2011-12, TIN 33054223541/2012-13, TIN 33054223541/2013-14 and TIN

33054223541/2014-15 respectively dated 22.05.2015, in and by which, reversal of ITC has been made against the petitioner on purchase from RC cancelled dealers and on other grounds. That apart, penalty was also imposed under Section 27(4) of the TNVAT Act.

3.The petitioner is a dealer in inverters, UPS and batteries and an assessee on the file of the respondent. The petitioner effects purchases from interstate and local registered dealers and effects sale to local consumers. The petitioner also avails ITC on the purchases effected from local registered dealer. The respondent issued notices dated 20.04.2015, stating that the sellers from whom the petitioner effected purchases have not reported the sales and the petitioner had availed ITC on the purchase made from registration cancelled dealers to which, the petitioner submitted a detailed reply dated 21.05.2015 and also objected to the proposal of levying penalty. The grievance of the petitioner is that without considering the objections, the respondent passed the impugned orders dated 22.05.2015. Hence the petitioner filed the present writ petitions.

4.Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondent.

5.The only ground on which the assessment orders are challenged is non-consideration of the petitioner's objections, by the assessing authority. Though the petitioner submitted a detailed reply along with objections, to the notices dated 20.04.2015, the respondent has not considered the same and passed the impugned orders.

6.The learned counsel for the petitioner submitted that it is nothing but non-application of mind and the respondent has passed non-speaking orders, which cannot stand for scrutiny.

7.The learned Additional Government Pleader, on the other hand, submitted that the authority has considered the objections and extracted the same in the assessment order.

8.No doubt, the entire objections were extracted but there is no discussion with regard to the same. In view of the same, the impugned orders are set aside and the matter is remitted back to the assessing authority for passing appropriate orders. The petitioner is permitted to file additional objections, if any, within a period of two weeks from the date of receipt of a copy of this order and on such filing of the same, the assessing authority is directed to consider the objections and pass appropriate orders on merits and in accordance with law, within a period of six weeks thereafter.

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

-s/d-
Assistant Registrar(CSIII)
dt:10/09/2015

True Copy

Sub-Assistant Registrar

To

The Commercial Tax Officer (FAC),
Vellore (South),
Commercial Taxes Buildings,
Fort Round, Vellore.

+1 cc to Mr.S.Ramanathan, Advocate sr.45276

W.P.No.26580 to 26583 of 2015

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aa10/09/2015