IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.02.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos. 2876 and 2877 of 2015 and

M.P.Nos.1 and 1 of 2015

M/s Saravana Selvarathnam Retail Pvt., Ltd.,
rep. By its Managing Director S.Saravana Arul
Chennai - 600 017
..Petitioner in both the petitions

Vs.

1. The Commercial Tax Officer,
Salt Coutars,
Enforcement (Central)
Greams road, Chennai

2. The Assistant Commissioner (CT)
Nandanam Assessment Circle,
No.46, Greenways Road,
Chennai - 28 ..Respondents in both the petitions

Prayer:- Writ Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the 2nd respondent in TIN/33811542625/2010-11; 2011-12 respectively dated 20.01.2015 and quash the same.

For Petitioner :Mr.T.V.Ramanujam, Sr.Counsel
for M/s G.Karthikeyan

For Respondents :Mr.V.Haribabu
Additional Government Pleader (T)

COMMON ORDER

In both the Writ Petitions the petitioner seeks for issuance of Writ of Certiorari to quash the orders of assessment dated 20.01.2015 under the provisions of Tamilnadu Value Added Tax Act 2006 and Central Sales Tax Act for the assessment years 2010-2011; 2011-2012.

2.The petitioner is a dealer on the file of the 2nd respondent in gold and diamond jewellery, silver articles, readymade garments, textiles, grocery items, furniture and other household articles. The petitioner herein is a dealer

3.According to the petitioner, the impugned proceedings of the 2nd respondent is arbitrary and illegal. The respondent, being a quasi judicial authority has to consider and discuss the objections filed by the petitioner, but the same has not been done. When the respondent is relying upon third party documents, they have to furnish a copy of the same and permit the petitioner to cross examine the dealers at the other end. As far as the sale bill is concerned, the petitioner was willing to produce the invoices and sought time. However, without giving further opportunity, the order has been passed by the authority mechanically.

4.According to the respondent, the Enforcement Wing Officials conducted a surprise inspection on 30.06.2014 and the proposals received from the Enforcement Wing Officials revealed various defects. Thereafter, a notice (with the opportunity of hearing) was sent to the petitioner and the petitioner availed the opportunity of hearing on 19.01.2015 and reiterated the contentions putforth in the replies already filed by them on 26.11.2014, 09.01.2015 and 19.01.2015. Each and every points raised by the petitioner were discussed by the authority and hence the impugned order stands good.

5.Heard the contentions of the learned counsel for the petitioner and the learned Additional Public Prosecutor and perused the materials available on record.

6.As could be seen from the objections, the petitioner has produced balance sheet and the same has been referred to by the authority, wherein it has been observed that on verification of the balance sheet, there is a difference between the balance sheet and the turnover reported in the monthly returns. While the passing order, the the authorities referred to the objections filed by the petitioner and each of the points are rejected in two sentences and it appears that there is no enquiry, hence the impugned order is liable to be set side. In view of the decision reported in Padmavathi Paddy and Rice Co. vs. Assistant Commissioner of Commercial Taxes, Anantapur and Another, enquiry is mandatory and that the impugned order suffers from violation of principles of natural justice and non-application of mind.

7.Hence the impugned order is set aside and the Writ P etitions are allowed and the matter is remitted to the authority and the authority shall conduct enquiry and pass orders after affording opportunity of personal hearing to the petitioner. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Asst.Registrar (CO)

/true copy/
Sub Asst. Registrar

ssd

To,

1. The Commercial Tax Officer,
   Salt Coutars,
   Enforcement (Central)
   Greams road, Chennai

2. The Assistant Commissioner (CT)
   Nandanam Assessment Circle,
   No.46, Greenways Road,
   Chennai - 28

2 ccs to Mr.G. karthikeyan, Advocat,e sr. 6107, 6108

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JP (CO)
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