IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2015

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos.3081 and 3082 of 2015
& M.P.No.1 of 2015 in each W.P.

M/s.Tamil Nadu Marketing,
Represented by its Manager
and Authorised Signatory,
No.14, Reddy Raman Street,
Sowcarpet, Chennai-600 079. .. Petitioner in both the Writ Petitions

Vs.

1. The Assistant Commissioner (CT),
Sowcarpet Assessment Circle,
No.48/39, Rajaji Salai, II Floor,
Chennai-600 001.

2. The Commercial Tax Officer,
Sowcarpet II Assessment Circle,
Chennai. .. Respondent in both the Writ Petitions

Writ Petition No.3081 of 2015 filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the impugned proceedings of the first respondent in TIN: 33770241295/2010-2011 and quash the order dated 08.01.2015 as passed contrary to the provisions of the TNVAT Act and also against the principles of natural justice and further direct the first respondent to provide for all the documents relating to the other dealers sales annexure (Annexure-II), to grant opportunity to the petitioner to cross examine them and also to file objections and thereafter pass orders in accordance with law.

Writ Petition No.3082 of 2015 filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the impugned proceedings of the first respondent in TIN: 33770241295/2011-2012 and quash the order dated 08.01.2015 as passed contrary to the provisions of the TNVAT Act and also against the principles of natural justice and further direct the first respondent to provide for all the documents relating to the other dealers sales annexure (Annexure-II), to grant opportunity to the petitioner to cross examine them and also to file objections and thereafter pass orders in accordance with law.

For petitioner : Mr.P.Rajkumar

For respondents : Mr.Kanmani Annamalai, Addl.G.P. (T)

ORDER

The petitioner has come forward with the above Writ Petitions for issuance of Writs of Certiorarified Mandamus to call for the impugned proceedings of the first respondent in TIN: 33770241295/2010-2011 and TIN: 33770241295/2011-2012 and quash the orders dated 08.01.2015 as passed contrary to the provisions of the Tamil Nadu Value Added Tax Act and also against the principles of natural justice and further direct the first respondent to provide for all the documents relating to the other dealers sales annexure (Annexure-II), to grant opportunity to the petitioner to cross examine them and also to file objections and thereafter pass orders in accordance with law.

2. Heard the learned counsel for the petitioner and the learned Additional Government Pleader who took notice for the respondents.

3. It is the case of the petitioner-Company that they have received notices, dated 30.05.2014 from the Commercial Tax Officer, Sowcarpet II Assesment Circle proposing to revise the assessment and to levy tax and penalty on the assessable turnover which was stated to be in wilful non-disclosure by the petitioner-dealer. It is stated by the petitioner that they have verbally requested the said authority to furnish the copies of the documents, based on which the purchase details have been furnished. In the meantime, in view of re-organisation of the office, the entire papers have been entrusted with the Assistant Commissioner (CT), who has passed the impugned orders. According to the petitioner, the Assistant Commissioner (CT) has not heard them before passing the impugned orders. That apart, the petitioner has already requested for the documents to be supplied, which fact was not brought to the notice of the Assistant Commissioner (CT) by the Commercial Tax Officer. The said request was also absent in the impugned orders, dated 08.01.2015.

4. Without going into the merits of the matter, since the impugned orders have been passed by the Assistant Commissioner (CT), who has not heard the petitioner and admittedly, the opportunity of hearing was not given to the petitioner, the impugned orders are set aside. The matters are remitted back to the first respondent-Assistant Commissioner (CT) for considering afresh and passing orders on merits and in accordance with law, after affording an opportunity of hearing to the petitioner. The petitioner-Company shall appear before the first respondent on 04.03.2015. In the meantime, it is open for the petitioner-Company to make a representation requesting

for copy of the documents required by them. All the available documents shall be furnished to the petitioner by the authority concerned within one week from the date of receipt of such a representation so as to enable the petitioner to file their objections, if any, on the date when they appear before the first respondent for personal hearing, i.e. on 04.03.2015. The petitioner shall file all their objections available to them. In case the petitioner fails to avail of the said opportunity on that date, it is open for the authority to pass orders on merits and in accordance with law, noting the absence of the petitioner.

5. With the above observations and directions, the Writ Petitions are disposed of. No costs. The Miscellaneous Petitions are closed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

cs

To

1. The Assistant Commissioner (CT),
Sowcarpet Assessment Circle,
No.48/39, Rajaji Salai, II Floor,
Chennai-600 001.

2. The Commercial Tax Officer,
Sowcarpet II Assessment Circle,
Chennai.

1 cc to M/s. P. Rajkumar, Advocate, Sr. 6894
1 cc to Spl.G.P. (Taxes), sr. 7122

W.P.Nos.3081 and 3082 of 2015

CA (CO)
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