IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.11.2015

CORAM:

THE HON'BLE MR. JUSTICE R. MAHADEVAN

W.P.Nos.31673 & 31674 of 2015
and M.P.Nos.1 of 2015 & 1 of 2015

M/s. G.S.Battery Point
rep. by its Prop. S. Gunaseelan
[ Petitioner in both the W.Ps.]

Vs

The Deputy Commercial Tax Officer (FAC)
Ranipet Sipcot Assessment Circle,
17, M.F.Road, Navalpur,
Ranipet, Vellore District. [ Respondent in both the W.Ps.]

Writ Petitions filed under Article 226 of the Constitution of India seeking a writ of certiorari to call for the records of the respondent in his proceedings in TIN 33124362067/2012-13 and 2013-14 respectively dated 28.05.2015 & 12.06.2015 and quash the same as illegal.

For petitioner : Mr.S.Ramanathan

For respondent : Mr.V.Haribabu, AGP(T)

COMMON ORDER

Heard the learned counsel for the petitioner and the learned Additional Government Pleader, who took notice for the respondent and with their consent, the main writ petition itself is taken up for disposal.

2. These writ petitions have been filed challenging the orders of the respondent in his proceedings in TIN 33124362067/2012-13 and 2013-14 respectively dated 28.05.2015 & 12.06.2015.

3. For the assessment years 2012-2013 & 2013-2014, the respondent detected certain purchase suppression, pursuant to which, notices were issued on 31.12.2014. In the said notices referring to the internet website, the respondent stated that the purchases have not been accounted by the dealers in their monthly returns in Annexure-II. Hence they proposed to disallow the ITC claimed by the petitioner along with the

proposal for levying penalty as well as interest. After receipt of the notices, though the petitioner was not able to file any reply, the representative of the petitioner Company met the respondent and by producing the purchase bills, requested the respondent to drop the proposal. However, without considering the same the respondent herein passed the assessment orders. Aggrieved over the same, the petitioner is before this Court.

4. According to the learned counsel for the petitioner, the transactions related details along with purchase bills were submitted to the respondent. The learned counsel also has fairly submitted that the petitioner was not able to furnish reply and on the other hand required details were placed before the respondent. But in the impugned orders, without adducing any reason and without considering the purchase bills produced by the petitioner, the orders came to be passed. Hence, the learned counsel for the petitioner submitted that there is violation of Principles of Natural Justice and further non consideration of the purchase bills produced by the petitioner apparently vitiates the impugned orders.

5. Learned Additional Government Pleader, on the other hand submitted that the petitioner did not file any objection and hence the impugned orders came to be passed.

6. I have considered the rival submissions and perused the materials available on record.

7. A perusal of the impugned order reveals that no opportunity of personal hearing was granted to the petitioner. Further, there is no such reference with regard to the purchase bills produced by the petitioner, when the petitioner complied Section 19(1) as well as Rule 10(2) of the TNVAT Act & Rules for claiming ITC, the denial of the same, for the lapses on the part of the sellers, cannot be justified. Hence, in the interest of justice, yet another opportunity is to be provided to the petitioner for placing all the materials along with objections, if any, before the respondent.

8. Accordingly, the impugned orders are set aside and the matters are remitted back to the respondent for fresh consideration. The petitioner is permitted to file their objections along with the documentary evidence, such as purchase bills, etc., within a period of two weeks from the date of receipt of a copy of this order. On such filing of objections as well as details, the respondent shall consider the same and pass orders on merits and in accordance with law, after affording due opportunity of hearing to the petitioner within a period of six weeks thereafter.

These writ petitions are disposed of accordingly. No costs.

Sd/-
Asst.Registrar (CS IV )

/true copy/

Sub Asst. Registrar

smi

To
The Deputy Commercial Tax Officer (FAC)
Ranipet Sipcot Assessment Circle,
17, M.F.Road, Navalpur,
Ranipet, Vellore District.

+1 cc to Mr.S.Ramanathan, Advocate, sr.61009

W.P.Nos.31673 & 31674 of 2015

rv co
kra 25.11.2015