IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.02.2015

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THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos.3336 and 3337 of 2015

and M.P.Nos.1 of 2015

Tvl.Rifah Shoes Pvt. Ltd [Petitioner in both]
Rep. by its Director
Mr.Junaid Ahmed
No.221, P.H.Road Kilpauk
Chennai-10.

Vs

The Assistant Commisisoner(CT)
Kilpauk Assessment Circle Taylors Road
Chennai-10. [Respondent in both]

Writ Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified mandamus calling for the records on the files of the respondent in proceedings in TIN 33851122302/ 2008-2009 and 2007-2008 respectively dated 31.12.2014 and quash the same being illegal invalid and violated the principles natural justice and also law laid down by this Honourable Court and direct the respondent to grant sufficient opportunity before passing Assessment Order.

For Petitioner : Mr.D.Vijayakumar

For Respondent : Mr.Kanmani Annamalai, AGP(T)

C O M M O N O R D E R

Heard the learned counsel for the petitioner and the learned Additional Government Pleader (Taxes) for the respondent.

2. The Petitioner has come forward with these writ petitions challenging the orders of the respondent dated 31.12.2014.

3. The petitioner was issued with notices dated 28.11.2014, wherein, it was informed to him that the turnover reported by the dealers have not been reflected in the Annexure II of the seller resulting in excess claim of ITC and hence they have proposed to reverse the excess claim of ITC and also levy penalty in terms of the Tamil Nadu Value Added Tax, 2006 (hereinafter referred to as the2006 Act).

4. From the typed set of papers filed by the petitioner, I could see that no replies to the said notices dated 28.11.2014 have been given by the petitioner. Yet another opportunity was given by the department on 16.12.2014 directing the petitioner to appear before the authority on 24.12.2014, on which date, the petitioner had requested time and the authority had also granted time till 26.12.2014.

5. According to the learned counsel for the petitioner, the petitioner appeared on 26.12.2014 and submitted a representation on the very same day. However, the authority has proceeded to pass an order ignoring that representation, wherein it is stated by the petitioner that the notices are silent about the details, which according to him are reflected in the impugned orders.

6. Since the notices are silent and that the impugned orders contain more details which are not reflected in the notices, I am of the view that the impugned orders dated 31.12.2014 are liable to be set aside on that sole ground and the matters are to be remitted back to the authority concerned to pass orders afresh on merits and in accordance with law, after affording an opportunity of hearing to the petitioner and also after furnishing the details required by the petitioner.

7. In the result, the impugned orders dated 31.12.2014 are set aside and the matters are remitted back to the authority concerned for passing appropriate orders. It is made clear that the petitioner is directed to treat the impugned orders as notices and the explanations/objections for the same shall be given by him on or before **(*) 06.04.2015**. In the meantime the respondent is directed to furnish the details/documents which are going to be the basis for passing the orders for reversal of ITC so that he will be in a position to submit his objections before hearing on **(*) 06.04.2015**. This Court further makes it clear that after affording an opportunity of being heard in person to the petitioner on **(*) 06.04.2015** and taking note of his objections if any to be filed by him on receipt of the particulars to be furnished by the respondent, appropriate orders on merits and in accordance with law, shall be passed by the respondent on merits and in accordance with law, not influenced by the order passed by this Court in these writ petitions, within a period of four weeks thereafter.

Accordingly, the Writ Petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

(*) Correctd as per the order
of this court dated 6/3/2015
made in WP.Nos.3336 & 3337/2015
as made herein.

s/d-
Assistant Registrar(J)
Dt:9/3/2015

True Copy

Sub-Assistant Registrar

To

The Assistant Commisisoner(CT)) To be substituted to the
Kilpauk Assessment Circle Taylors Road) order despatched on5.3.2015
Chennai-10.)

+ 1 cc to Government Pleader, High Court, Chennai.Sr.No.7580.

+ 1 cc to Mr.D.Vijayakumar, Advocate, SR.No.12650.

W.P.Nos.3336 and 3337 of 2015

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