IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 19.03.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos.6077 to 6081 of 2015 and M.P.Nos.1 to 1 of 2015

Agents International,
rep. by its Proprietor ... Petitioner in all cases

Vs.

Commercial Tax Officer,
Peddunaickenpet Assessment Circle,
No.49/38, Rajaji Salai,
Wavoo Mansion Third Floor,
Chennai 600 001. ... Respondent in all cases

Prayer in all cases:- Writ Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the respondent in his proceedings leading to passing of the assessment order vide TIN/33440280034/2009-10, 2010-11, 2011-12, 2012-13 and 2013-14 dated 30.01.2015 and to quash the same.

For Petitioner in all cases : Mr.S.Sathiyanarayanan
For Respondent in all cases : Mr.V.Haribabu, AGP (T)

C O M M O N O R D E R

With the consent on either side, the Writ Petitions are taken up for final disposal at the admission stage.

2.The petitioner has come forward with the aforesaid Writ Petitions challenging the assessment order vide TIN/33440280034/ 2009-10, 2010-11, 2011-12, 2012-13 and 2013-14 dated 30.01.2015 and to quash the same.

3.According to the petitioner, he is in the business of sale and distribution of Electrical and Electronic Appliances.

4.Learned counsel for the petitioner drew the attention of this Court to the reply given by the petitioner wherein it has been stated by the petitioner that “the respondent have already reversed a credit of Rs.7,43,045/- in the assessment order dated 13.09.2011, without assigning any reason thereupon or issuing show cause notice to the petitioner, before passing orders”. Even though the petitioner objected to state the reversal of Rs.7,43,045/- in the assessment order, the same has not been considered by the authority. Learned counsel for the petitioner prays to quash the impugned order on the ground that no opportunity has been given to the petitioner. He would further submit that the petitioner is willing to pay 10% of the tax amount and he may be given opportunity to put forth his case.

5.Learned Additional Government Pleader appearing for the respondent sought for adjournment to enable the respondent to ascertain as to whether personal hearing was given to the petitioner and he has produced extract of the visitors book and informed the Court that the petitioner has appeared on 15.12.2014 and made his submission.

6.Heard the learned counsel for the petitioner as well as the learned Additional Government Pleader appearing for the respondent and perused the documents available on record.

7.Having considered the submission made by both sides, this Court is of the view that the visitors book cannot be considered as an one for recording the personal hearing of the petitioner and it could be taken only as an entry to the office. The petitioner shall deposit 10% of the tax amount, as agreed by the petitioner before the authority concerned on or before 30.04.2015 and the petitioner shall appear for personal hearing on 04.05.2015.

8.Hence, the impugned order is set aside and the matter is remitted to the authority for fresh consideration and the authority shall pass orders on merits, after affording opportunity of personal hearing to the petitioner.

9.Accordingly, the writ petitions are allowed. Consequently, connected miscellaneous petitions are closed. No costs.

10.In case the petitioner fails to pay the 10% of the amount, as agreed by the petitioner, within the said period, the original order impugned in the Writ petitions shall stand restored and the respondent is empowered to initiate appropriate action in accordance with law.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vga

To

The Commercial Tax Officer,
Peddunaickenpet Assessment Circle,
No.49/38, Rajaji Salai,
Wavoo Mansion Third Floor,
Chennai 600 001.

+5cc's to Mr.S.Sathiyanarayanan, Advocate, S.R.No.15656 to 15660
+1cc to the Special Government Pleader(T), S.R.No.15806

W.P.Nos.6077 to 6081 of 2015

LRS(CO)
CA(08/04/2015)