IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.03.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos.6083 to 6088 of 2015
and
M.P.No.1 of 2015

M/s.K.T.V.Health Foods(P) Ltd
Rep. By its Managing Director
7/3, Arul Nagar Road
Kodungaiyur
Chennai-600 118 ... Petitioner in all above Wps.

Vs.

1.The Principal Secretary/Commissioner of Commercial Taxes
Ezhilagam, Chennai-600 005

2.The Assistant Commissioner(CT)
Central Enforcement Wing (North)
2nd Floor, Greams Road
Chennai-600 006

3.The Assistant Commissioner (CT)
Kodungaiyur Assessment Circle
Chennai-600 118 ... Respondents in all the above Wps.

Prayer in 6083/2015 :Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the 3rd respondent in TIN/33871083006/2007-08, 2008-2009, 2009-10, 2010-11, 2011-12, and 2012-13 respectively and quash the order dated 05.02.2015 and to direct the 3rd respondent to pass orders without being influenced by the report dated 24.12.2014 of the 2nd respondent.

For Petitioner : M/s.R.L.Ramani, Senior Counsel for Mr.B.Raveendran

For Respondents : Mr.V.Haribabu, Addl.Govt.Pleader(Taxes)

O R D E R

The Writ Petitioner has come forward with the aforesaid prayer, challenging the order of the 3rd respondent dated 05.02.2015 and to direct the 3rd respondent to pass orders without being influenced by the report dated 24.12.2014 of the 2nd respondent.

2. The place of business of the petitioner was inspected by the Enforcement Wing Officials on various dates starting from 30.04.2014 and certain defects were noticed and based on the same, issued notices proposing to levy the turnover by making additions. Similar notices were issued for assessment years 2007-08 to 2013-14 dated 12.01.2015. The petitioner explained the alleged defects and requested time to produce all the details. The petitioner was under the impression that extension of time had been granted, however, impugned order dated 05.02.2015 has been passed by the third respondent on the basis of the alleged defects pointed out by the 2nd respondent.

3. According to the petitioner, without going into the objection given by the petitioner for the proposal, the impugned order was passed and as such, no extension of time was granted to the petitioner to substantiate their stand with records.

4. Learned Additional Government Pleader (Taxes) appearing for the respondents submitted that the petitioner was given 15 days time and thereafter only, the impugned order dated 05.02.2015 was passed.

5. In my considered opinion, since the assessment proposals were made for the assessment years 2007-08, 2008-09, 2010-11, 2011-12, 2012-13, the petitioner sought time extension to substantiate their stand on the alleged defects, however, neither time extension nor personal hearing was granted to the petitioner to explain their stand, and hence, the impugned orders are passed not in accordance with the provisions of Tamil Nadu Value Added Tax Act, 2006. For the said reason, this Court is inclined to interfere with the impugned orders and the same is set aside. The third respondent is directed to grant time and afford personal opportunity to the

petitioner to explain their stand for each assessment year on the first working day of the week commencing from 4th April 2015. If the petitioner fails to avail the opportunity extended, it is open to the third respondent to pass appropriate orders on merits and in accordance with law. The Writ Petitions are allowed on the above terms. No costs. Connected MPs are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

nvsri

To

1. The Principal Secretary/Commissioner
   of Commercial Taxes, Ezhilagam, Chennai-600 005

2. The Assistant Commissioner(CT)
   Central Enforcement Wing (North)
   2nd Floor, Greams Road, Chennai-600 006

3. The Assistant Commissioner (CT)
   Kodungaiyur Assessment Circle
   Chennai-600 118

+1cc to Mr.B.Raveendran, Advocate, S.R.No.12295
+1cc to the Special Government Pleader(T), S.R.No.12415

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CNR(CO)
CA(19/03/2015)