IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.03.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos.9102, 9103, 9104 and 9105 of 2015
and
M.P.Nos.1, 1, 1 and 1 of 2015

Tvl.Track Shoes Private Limited,
represented by its Managing Director,
Venkat Rao,
No.4/287, Kudrathur Main Road,
Kovur, Chennai - 600 101. ... Petitioner in all W.Ps

vs.

Commercial Tax Officer,
Iyyapanthangal Assessment Circle,
No.5/44, Valluvar Salai,
Ramapuram, Chennai - 600 089. ... Respondent in all W.Ps

Writ Petitions filed under section 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records on the file of the respondent in his impugned proceedings in TIN No.33531382244/2010-11, TIN No.33531382244/2011-12, TIN No.33531382244/2012-13 and TIN No.33531382244/2013-14 dated 12.02.2015 and quash the same and direct the respondent to redo the assessment after giving personal hearing.

For Petitioner : Mr.J.Ravikumar

For Respondent : Mr.A.N.R.Jayapratap
Additional Government Pleader (Taxes)

COMMON ORDER

Heard Mr.J.Ravikumar, learned counsel for petitioner and Mr.A.N.R.Jayapratap, learned Additional Government Pleader (Taxes). With the consent of both the parties, these writ petitions are taken up for final disposal at the admission stage itself.

2. Petitioner has filed these writ petitions seeking to quash the orders of the respondent dated 12.02.2015.

3. Petitioner is a registered dealer and assessee on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006. They are manufacturer of leather shoes and leather garments. The petitioner's business place was inspected by the officers of the Enforcement Wing on 21.11.2013. Based on the inspection report, pre-revision notices dated 10.11.2014 was issued to the petitioner. Petitioner filed reply dated 10.11.2014. However, without considering the same, the respondent passed the impugned orders.

4. Two points raised by the petitioner are that the petitioner was not given an opportunity of personal hearing and the documentary evidence filed by them along with the objections dated 28.01.2015 viz., Annexure A to D & X, has not been considered. The petitioner submitted that the respondent has proceeded on the basis of the inspection report and stated that the proposal cannot be dropped on the basis of the objections and that there was no valid document to consider the case of the petitioner.

5. Learned counsel for petitioner submitted that the petitioner has agreed to pay 5% of the tax amount (for each assessment year) as determined in the impugned orders without prejudice to their rights and the petitioner would cooperate to enable the assessing officer to complete the proceedings afresh.

6. Though this Court is not inclined to accept the contention that the respondent was influenced by the inspection team, admittedly the petitioner was not given an opportunity of personal hearing apart from the fact of non-consideration of the documents produced by the petitioner. The points raised by the petitioner could not be refuted by the respondent. Hence, this Court is inclined to set aside the impugned orders only on these two grounds.

These Writ Petitions are allowed. The impugned orders are set aside. The matters are remitted back to the original authority to consider the case of the petitioner and pass order afresh after affording an opportunity of personal hearing to the petitioner. The respondent is directed to accept 5% of the amount (for each assessment year) as determined in the impugned orders, which the petitioner has agreed to pay the same, which can be adjusted from the refund. The petitioner is directed to pay 5% of the amount and make additional submissions on or before 30.04.2015 and appear before the authority on 04.05.2015. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gm

To

The Commercial Tax Officer,
Iyyapanthangal Assessment Circle,
No.5/44, Valluvar Salai,
Ramapuram, Chennai - 600 089.

+4cc's to Mr.J.Ravi Kumar, Advocate, S.R.No.18558
+1cc to the Special Government Pleader, S.R.No.17851

W.P.Nos.9102, 9103, 9104 and 9105 of 2015

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