IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.03.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

WP.Nos.9325 & 9326/2015 & MP.Nos.1 & 1/2015

Tvl.Jayadurga Battery Services
rep.by its Proprietor
No.184/78, Cuddalore Road
Virudhachalam, Cuddalore District. .. Petitioner in both the writ petitions

Versus

The Commercial Tax Officer
Vridhachalam Assessment Circle
Ground and First Floor
No.135, Junction Road
Virudhachalam, Cuddalore District. .. Respondent in both the writ petitions

Writ petitions filed under Article 226 of the Constitution of India praying for a writ of certiorari calling for the records in respect of the impugned Assessment Orders TIN Nos.33394423853/2012-13 and 33394423853/2013-14 dated 29.01.2015 of the respondent under the Tamil Nadu Value Added Tax Act, 2006 and quash the same.

For Petitioner in both the petitions : Mr.Adithya Reddy

For Respondent in both the petitions : Mr.Manoharan Sundaram, AGP [Taxes]

COMMON ORDER

Heard Mr.Adithya Reddy, learned counsel appearing for the petitioner; Mr.Manoharan Sundaram, learned Additional Government Pleader [Taxes] accepting notice for the respondent and with their consent, the writ petitions itself are disposed of at the admission stage itself. Since the issue involved in these writ petitions and the parties are one and the same, the above petitions are disposed of by the following common order.

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2.The petitioner has filed these writ petitions seeking to quash the Assessment orders of the respondent dated 29.01.2015 made in TIN Nos.33394423853/2012-13 and 33394423853/2013-14. Petitioner is a registered dealer under the Tamil Nadu Value Added Tax Act, 2006. While assessing the annual returns of the petitioner during the years 2012-13 and 2013-14, it is alleged that the petitioner had suppressed the purchase to the tune of Rs.27,10,438/- & Rs.13,81,528/- respectively. The department issued notice dated 30.12.2015 & 08.01.2015 stating that during verification, the said defects were found and hence, a penalty has been imposed.

3. The petitioner filed objections stating that he has not effected any other purchases and the details furnished by him as turnovers for the year 2012-13 and 2013-14 is correct and hence requested the authority to cancel the notices dated 30.12.2014 & 08.01.2015. However, on 29.01.2015, the authority has passed an order stating that the dealer has filed a reply and in the absence of any documentary evidence, the same cannot be accepted and therefore, the proposal was confirmed.

4. When the respondent has referred to certain documents which has been taken from the departmental website, it is the duty of the respondents to furnish the same to the petitioner and call for an explanation and thereafter pass the final order. Since the same has not been given in this case, I have no other option except to quash the impugned order.

5. Hence, the impugned order passed by the respondent is hereby quashed and it is open to the authority to furnish the details to the petitioner and call for an objection and after affording a reasonable opportunity of personal hearing, shall pass appropriate orders, on merits and in accordance with law, if it is so required. These writ petitions are disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

सत्यमेव जयते

Sd/-
Assistant Registrar

//True Copy/

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Sub Assistant Registrar

smi

To

The Commercial Tax Officer
Vridhachalam Assessment Circle
Ground and First Floor
No.135, Junction Road
Virudhachalam, Cuddalore District.

+ 1 cc to Special Government pleader Sr.18246
+ 2 ccs to Mr.S.P. Asokan, Advocate Sr. 18140

WP.Nos.9325 & 9326/2015

RSY(CO)
Eu 16.04.2015

HIGH COURT OF JUDICATURE MADRAS
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