IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 09.03.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P. Nos.997&998 of 2015

Abba Lighting Solutions
rep by its partner
Mr.Shiv Rattan Khanna
No.1/1 2nd floor, State Bank Street
Chennai-600 002 .. Petitioner in both cases

Vs.

1.The Assistant Commissioner (CT)
Anna Salai Assessment Circle
No.46, Greams Road
Chennai-600 006

2.The Joint Commissioner(CT)
Enforcement (East)
No.46, Greams Road
Chennai-600 006 ... Respondent in both the cases

Prayer in both cases:- Writ Petitions filed under Article 226 of the Constitution of India to issue a Writ of certiorari to call for the records of the first respondent in TIN/33770600777/2011-12,2012-13, quash the impugned proceedings dated 11.12.2014.

For Petitioners : Mr.V.Sundareswaran

For Respondent : Mr.Kanmani Annamalai AGP (T)

COMMON ORDER

In both the writ petitions, the petitioner seeks to quash the impugned proceedings dated 11.12.2014 passed by the respondent in respect of the TINs:33770600777/2011-12/2012-13 and to direct the respondent to pass order after giving an adequate opportunity and a personal hearing.

2. Heard learned counsel for the petitioner and the learned Additional Government Pleader for the respondent.

3. Petitioner states that he is a registered dealer in electrical and electronic fittings on the files of the first respondent being an assessing officer as defined under Section 2(5) of the Act under the provisions of the Tamilnadu Value Added Tax Act, 2006 (hereinafter called 2006 Act). Petitioner states that they purchase from several dealers and they produce all the invoice

and other documents in support of their transaction. The respondent without taking note of the same stated that the petitioner is not a valid dealer and not furnished the details fo movement of the goods such as lorry receipt, vouchers for unloading the goods and weigh slips for the goods purchased. Petitioner stated that the transaction of goods has to be accompanied by the invoice and not the entire documents except the one mentioned under Rule 10(2) r/w Section 19(1) and Sec.3(3) of the Act 2006.

4. Learned Additional Government Pleader for respondents per contra stated that they have not produced any document and submitted only the bills and hence the request for reversal cannot be accepted. Respondents relied on Section 19(15) of the Act 2006 and contended that they are entitled to reject the request of the petitioner if the details furnished by the assessee is not correct and not in order. Learned counsel further submits that the provisions of 19(13) and Rule 10(2) will have to be read together along with Section 19(16). Rule 10(13) of the Act 2006, reads as follows:

> "10(13): Where a registered dealer without entering into a transaction of sale, issues an invoice, bill or cash memorandum to another registered dealer, with the intention to defraud the Government revenue, the assessing authority shall, after making such enquiry as it thinks fit and giving a reasonable opportunity of being heard, deny the benefit of input tax credit to such registered dealer who has claimed input tax credit based on such invoice, bill or cash memorandum from such date."

Rule 10(2) will not be applicable to the petitioner since the petitioner has given the details and it cannot be construed that the particulars given by the petitioner are not correct or to fraud the Government. Rule 10(2) is very clear that the details required under Section 19(13) will have to be furnished in terms of the said rule which the petitioner had given in detail, without considering the same the authority has rejected the contention of the petitioner. Since the petitioner has furnished all details and documents and original and that contention of the respondent is that all the documents referred to by the petitioner are not available in records.

5. Taking note of the judgment of this court in Jinsasan Distributors vs. Commercial Tax Officer (CT), Chintadripet Assessment Circle, Chennai, (2013) 59 VST 256 (Mad) the impugned order passed by the respondent in TIN/33770600777/2011-12,2012-13, dated 11.12.2014 are set aside and the matter is remitted back to the respondents to give opportunity of personal hearing on 10.04.2015 and pass orders in accordance with law.

6. With the above direction, these writ petitions are disposed of. No costs. Connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To

1.The Assistant Commissioner (CT)
Anna Salai Assessment Circle
No.46, Greams Road
Chennai-600 006

2.The Joint Commissioner (CT)
Enforcement (East)
No.46, Greams Road
Chennai-600 006

+1 cc to Mr.v.Sundreswaran, Advocate,SR.13391

1 cc to Spl.Government Pleader,(T)SR.13391.

ak(co)
krd 30/3

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