IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2016

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.Nos.4106 and 4107 of 2014
and M.P.Nos.1 and 1 of 2014

M/s.V.S.Enterprises,
Represented by its Partner,
New No.7 (Old No.5),
48th Street, 9th Evenue,
Ashok Nagar, Chennai - 600 083. .. Petitioner in both W.Ps

Vs

The Assistant Commissioner (CT),
Saligramam Assessment Circle,
No.20, 88th Street, Kamarajar Salai,
Ashok Nagar, Chennai - 600 083. .. Respondent in both W.Ps.

Prayer in W.P.No.4106 of 2014: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the impugned proceedings of the respondent in TIN:33611423328/2010-2011 dated 30.12.2013 and quash the same as passed contrary to the provisions of the TNVAT Act and also violating the principles of natural justice.

Prayer in W.P.No.4107 of 2014: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the impugned proceedings of the respondent in TIN:33611423328/2011-2012 dated 30.12.2013 and quash the same as passed contrary to the provisions of the TNVAT Act and also violating the principles of natural justice.

For Petitioner in both W.Ps. : Mr.P.Rajkumar
For Respondent in both W.Ps. : Mr.Manokarasundaram Additional Government Pleader

COMMON ORDER

Heard Mr.P.Rajkumar, learned counsel appearing for the petitioner and Mr.Manokarasundaram, learned Additional Government Pleader appearing for the respondent and with their consent, these Writ Petitions were taken up for final disposal.

2.The petitioner, who is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax, 2006 (TNVAT Act) (hereinafter referred to as "the Act") has challenged the orders of assessment for the year 2010-2011 and 2011-2012 respectively. The respondent issued notices to the petitioner dated 24.09.2012 and 23.09.2013 respectively, stating that the petitioner has undervalued the sale value to evade the payment of tax and proposed to arrive at the sale value by adding 10% towards gross profit. The petitioner submitted their objections pointing out that the same has not been done and even assuming that the respondent is of the opinion that the sale value has been undervalued to evade the payment of tax, then the procedure contemplated under Section 24 r/w. Rule 8(3) of the TNVAT Act should be followed. That apart, the petitioner specifically pleaded for a personal hearing. From the impugned orders, it is seen that the respondent has not afforded an opportunity of personal hearing.

3.The learned counsel appearing for the petitioner submitted that if an opportunity of personal hearing had been granted to the petitioner, he would have been in a position to convince the respondent about the factual matters and it would not have resulted in addition of 10% of gross profit.

4.In the light of the fact that inspite of petitioner's specific request for an opportunity of personal hearing, the same was not afforded by the respondent, the matters requires to be remitted back to the respondent for re-doing the assessment after affording an opportunity of personal hearing to the petitioner. Accordingly, the writ petitions are allowed on this technical ground and the impugned orders are set aside and the matter is remanded back to the respondent to issue notice to the petitioner for personal hearing, to hear the petitioner and thereafter, proceed to complete the assessment in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

cse

To

The Assistant Commissioner (CT),
Saligramam Assessment Circle,
No.20, 88th Street, Kamarajar Salai,
Ashok Nagar, Chennai - 600 083.

+1cc to Mr.P.Rajkumar, Advocate Sr.37413
+1cc to the Special Government Pleader Sr.37814

W.P.Nos.4106 and 4107 of 2014
and
M.P.Nos.1 and 1 of 2014

ad[co]
srg 25/07/2016