IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.11.2016

CORAM :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.9384 & 9385 of 2014 &
MP.Nos.1 & 1 of 2014

M/s.Global Infonet Distributions
Pvt. Ltd., rep.by its Director
Mr.Vibu Venkat ...Petitioner

Vs

The Assistant Commissioner (CT),
(FAC), Mylapore Assessment Circle,
Chennai-28. ...Respondent

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorari to call for the records of the 1st respondent respectively in TIN 33490561355/2008-09 and TIN 33490561355/2009-10, both dated 06.12.2013 and quash the impugned proceedings dated 06.12.2013.

For Petitioner : Mr.R.Kumar
For Respondent : Mr.S.Kanmani Annamalai, AGP

COMMON ORDER

Heard both.

2. The petitioner, which is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006, filed these writ petitions challenging the assessment orders dated 6.12.2013 for the years 2008-09 and 2009-10.

3. Two grounds have been raised by the petitioner. Firstly, it is contended that the pre-revision notices dated 10.9.2013 were not communicated to the petitioner to the change of address given by the petitioner to the Department. It is pointed out that the change of address was duly intimated by letter dated 12.10.2010 and received by the Superintendent of the respondent office on 13.10.2010 vide acknowledgement in the letter delivery book, apart from intimating the respondent about the change of address, the present Assessing Officer of the petitioner in the change of address was also intimated on 13.10.2010 namely the

Assistant Commissioner of Commercial Taxes, Aminjikarai Assessment Circle. However, the respondent passed the impugned orders without an opportunity.

4. Secondly, it is contended that the rate of tax for ink jet cartridges and toner cartridges is covered by the decision of the Hon'ble Division Bench of this Court in the case of M/s.Canon India Private Limited Vs. State of TN & others [W.P.No.4042 of 2008 etc. cases dated 17.7.2013] wherein the rate of tax was held to be 4%. Therefore, it is submitted that the impugned proceedings may be set aside and the matters may be remitted back to the respondent for fresh consideration.

5. The learned Additional Government Pleader appearing for the respondent would submit that so far as the issue relating to ink jet cartridges and toner cartridges is concerned, this Court may dispose it of in the light of the said decision of the Hon'ble Division Bench whereas on the issue of assessment towards multi functional printers/copiers, the petitioner should be directed to pay tax.

6. However, taking note of the fact that the petitioner did not have an opportunity to put forth their case, this Court is of the view that an opportunity should be afforded to the petitioner.

7. Accordingly, the writ petition is partly allowed, the rate of tax fixed at 12.5% for ink jet cartridges and toner cartridges is set aside and the respondent is directed to assess the turnover at 4%. In so far as the rate of tax for multi functional printers/copiers is concerned, the petitioner is directed to treat the impugned assessment orders as show cause notices and submit their objections within a period of two weeks from the date of receipt of a copy of this order. Thereafter, the respondent shall afford an opportunity of personal hearing to the petitioner and redo the assessment under the said head in accordance with law. No costs. Consequently, the above WMPs are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

rs

To

The Assistant Commissioner (CT),
(FAC), Mylapore Assessment Circle,
Chennai-28.

+ 1 cc to M/s. R. Kumar, Advocate Sr.64458
+ 1 cc to M/s. Special Government Pleader SR.64566

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and MP.Nos.1 and 1 of 2014

CNR(CO)
Eu 20.12.16