IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.10454 of 2014

M/s.Saint Gobain Glass India Ltd.,
Rep., by its Team Leader – Finance & Accounts,
Sigappi Achi Building, 7th Floor,
18/3, Marshalls Road, Egmore,
Chennai – 600 008 .. Petitioner

Versus

The Deputy Commissioner (CT) IV
Large Tax Payers Unit,
Chennai – 600 008. .. Respondent

Prayer: Petition filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari, to call for the records of the respondent in TNVAT/33511662391/2012-13, and quash the order dated 26.02.2014, passed therein.

For Petitioner : Mr.R.L.Ramani Senior Counsel for Ms.Hema Muralikrishnan

For Respondent : Mr.S.Kanmani Annamalai AGP

O R D E R

Heard Mr.R.L.Ramani learned Senior counsel assisted by Ms.Hema Muralikrishanan, learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader appearing for the respondent.

2. The petitioner is a manufacturer of glass, mirror etc., and registered as a dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006, (TNVAT Act), and Central Sales Tax Act, 1956, (CST Act).

3. The petitioner has filed this Writ Petition challenging the assessment orders passed under the provisions of the TNVAT Act, for the year 2012-13. Two grounds have been raised by the learned Senior counsel for the petitioner. Firstly, that the revision notice dated 19.06.2013 was not served on the petitioner, and therefore, no opportunity was granted to the petitioner to put forth their objection. Secondly it is contended that the details based on which, the assessment was sought to be revised has not been clearly set

out in the impugned order and even if a notice had been issued with the same information, the petitioner would not have been in a position to submit an effective reply. The instructions given by the respondent is in the form of a draft counter affidavit, from which it is seen that the respondent has dealt with the entire merits of the assessment. So far as the allegation of non-service of revision notice, a vague averment is made in paragraph 8 of the draft counter stating that normal procedure has been followed by handing over the notices to the Tapal section. However, this averment is insufficient because the petitioner's case is that no notice was served on them. Therefore, the respondent to dislodge the said claim should produce proof of service of notice, like postal acknowledgement or direct service on the dealer. In the absence of the same, this Court is inclined to accept the stand taken by the petitioner that revision notice was not served on them. Thus, the first contention raised by the petitioner merits consideration.

4. Regarding the second contention, if the impugned order is perused, the defects as pointed out therein is on the ground that the petitioner has effected purchases from stopped business dealers, registration cancelled dealers, compounding dealers, non-assessee dealers, unregistered dealers, and from returns not filed dealers. However, the details of those dealers, such as invoice number or TIN number etc., have not been furnished. Unless the full and complete details are furnished, the petitioner will not be in a position to submit an effective reply and therefore, the proceedings cannot be taken to the logical end in a proper manner, ultimately affecting the interest of the petitioner. The entire proceedings commencing from issuance of notice dated 19.06.2013, culminating in the impugned order dated 26.02.2014, are vitiated.

5. Accordingly, the Writ Petition is allowed, and the impugned order is quashed and the respondent is directed to issue fresh notice giving full particulars of the alleged defects and afford opportunity to the petitioner to submit their objections and on receipt of the objections, afford an opportunity of personal hearing to the authorized representative of the petitioner and redo the assessment in accordance with law. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

To

The Deputy Commissioner (CT) IV
Large Tax Payers Unit,
Chennai - 600 008.

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