IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.11.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.9782 to 9786 of 2014

M/s.Kgeyes Residency (P) Ltd.,
Rep., by its Authorized Signatory,
No.10, II Cross Street,
Raja Annamalaipuram,
Chennai - 28. ... Petitioner in all W.Ps

Versus

The Commercial Tax Officer,
Adyar I Assessment Circle,
No.46, C.P.,Kumarasamy Raja Salai,
Chennai - 600 028 ... Respondent in all W.Ps.

Common Prayer: Petition filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus to call for the impugned proceedings of the respondent in TIN/33890861253/2006-2007, 2008-09, 2009-10, 2010-11, & 2011-12 and quash the impugned order dated 03.03.2014, as passed contrary to the principles of natural justice and further direct the respondent to consider the objections dated 17.02.2014, filed by the petitioner and pass a fresh assessment order in accordance with law.

For Petitioner : Mr.C.Sivasubramanian

For Respondent : Mr.K.Venkatesh
Government Advocate

C O M M O N O R D E R

Heard Mr.C.Sivasubramanian, learned counsel for the petitioner and Mr.K.Venkatesh, learned Government Advocate, for the respondent. With the consent of either side, the Writ Petitions are taken up for final disposal.

2. The petitioner in these Writ Petitions, is a registered dealer on the file of the respondent under the provision of the Tamil Nadu Value Added Tax Act, 2006, (TNVAT Act). In these Writ Petitions, the petitioner has challenged the orders of assessment under the TNVAT Act, for the assessment years 2006-07, 2008-09 to 2011-12. The only ground on which, the impugned orders have been challenged is by contending that the objection given by the petitioner to the

notice dated 30.01.2014, which was received by the office of the respondent on 20.02.2014, has not been considered and the respondent has arbitrarily stated that no objection was filed. The petitioner has produced proof to show that the objections were received in the office of the respondent on 20.02.2014, as there is an endorsement in the letter delivery book along with the official seal. This document has not been disputed by the respondent in the counter affidavit. One more aspect that has to be pointed out is that the respondent has issued three sets of notice for the same assessment years based on the same allegation. The first set of notice was given on 17.05.2013, for which the petitioner has given objection on 27.05.2013. Thereafter, another set of notices were issued on 30.09.2013, for which the petitioner is stated to have filed an objection on 12.10.2013. Thereafter, the third set of notices were issued on 30.01.2014. However, there is no proof to show that the objections dated 27.05.2013 and 12.10.2013 were served in the office of the respondent. However the objection dated 17.02.2014, is shown to have been served in the office of the respondent on 20.02.2014. Thus, non-consideration of the said objection amounts to serious violation of the principles of natural justice which is sufficient to hold that the impugned orders are not sustainable.

3. Accordingly, the Writ Petitions are allowed and the impugned orders are set aside and the matter is remanded to the respondent for fresh consideration. Considering the facts that the Writ Petitions are of the year 2014, the petitioner is directed to submit fresh objections within a period of two weeks from the date of receipt of a copy of this order and on receipt of the objections, the respondent shall afford an opportunity of personal hearing, permit the petitioner to produce documents, books of accounts etc., and redo the assessment in accordance with law. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

pbn
To

The Commercial Tax Officer,
Adyar I Assessment Circle,
No.46, C.P.,Kumarasamy Raja Salai,
Chennai - 600 028.

+1cc to Mr.P.Raj Kumar, Advocate, S.R.No.64422
+1cc to the Special Government Pleader(T), S.R.No.64652

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RSY(CO)
CA(05/01/2017)