IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.16096 and 16097 of 2015
and
MP.Nos.1 of 2015

M/s.Modern Agency,
Rep. By its Partner,
No.A/56, 11th street,
Anna Nagar (East),
Chennai - 600 012. ... Petitioner in both WPs

Vs.

1.The Commercial Tax Officer,
Sowcarpet Assessment Circle,
No.48/39, Rajaji Salai, II Floor,
Chennai - 600 001.

2.The Commercial Tax Officer,
Sowcarpet II Assessment Circle,
Chennai. ... Respondents in both WPs

COMMON PRAYER: Writ Petitions filed under Article 226 of Constitution of India praying to issue Writ of certiorarified mandamus to call for the impugned proceedings of the first respondent in TIN/33280242098/2010-2011 and TIN/33280242098/2011-2012 respectively and quash the order dated 07.05.2015 as passed contrary to the provisions of the TN VAT Act and also against the principles of natural justice and also without considering the objections dated 18.06.2014 and 25.08.2014 and further direct the first respondent to provide all the documents relating to the other dealers sales annexure (annexure II), to grant opportunity to the petitioner to cross-examine them and also to file objections and thereafter to pass orders in accordance with law.

For Petitioner : Mr.P.Rajkumar

For Respondents: Mr.S.Kanmani Annamalai, AGP (T)

COMMON ORDER

Heard Mr.P.Rajkumar, learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Tax) for the respondents, and with the consent of either side, the writ petition is taken up for disposal.

2. The petitioner, who is a registered dealer on the file of the respondent under the provision of the Tamil Nadu Value Added Tax Act, 2006 (TN VAT Act), has challenged the assessment orders dated 07.05.2015 under the provisions of the TN VAT Act for the years 2010-2011 and 2011-2012. The only ground on which the impugned assessment orders have been challenged by contending that though the petitioner has furnished voluminous set of documents, the respondent proceeded to complete the assessment stating that the petitioner has not furnished the documentary evidence. To establish that the documents were given by the petitioner, a copy of the letter delivery book has been produced showing that an endorsement has been given on 26.08.2014 by the office of the respondent department. In taking into consideration of this submission, the Court entertained the writ petition and passed an order of status-quo on 08.06.2015. Thereafter, the matter was adjourned twice for filing counter affidavit by the respondent. The Court granted the time so as to enable the respondent to accept or deny the allegation made by the petitioner that they have furnished the documents to support their stand. However, when the case is taken up today, neither the counter affidavit has been filed nor any written instruction has been received by the learned Additional Government Pleader for the respondent department. Therefore, this Court is inclined to accept the stand taken by the petitioner as true and that the office of the DCTO has received all the documents as evidenced by the letter delivery book dated 26.08.2014.

3. In such circumstances, the only conclusion that can be arrived is that the impugned assessment orders issued are in total violation of the principles of natural justice. Accordingly, the writ petitions are allowed, by setting aside the impugned assessment orders. Consequently, these matters are remanded back to the respondent for fresh consideration, who shall afford an opportunity of personal hearing to the petitioner and peruse all the documents and proceed to complete

the assessment in accordance with law. No Costs. Connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

rkm

To

1.The Commercial Tax Officer,
Sowcarpet Assessment Circle,
No.48/39, Rajaji Salai, II Floor,
Chennai - 600 001.

2.The Commercial Tax Officer,
Sowcarpet II Assessment Circle,
Chennai.

1 cc to Mr.Rajkumar, Advocate, sr.39029
1 cc to Special Government Pleader,(Taxes), sr.39174

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kra 26.07.2016