IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.08.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.15484 to 15486 of 2014

Tvl.Bharat IT Services Ltd.,
No.40, I Floor, K.B.Dasan Road,
Alwarpet, Chennai 600 018. .. Petitioner in all W.Ps.

Versus

The Assistant Commissioner (CT)
Alwarpet Assessment Circle,
Chennai - 600 028. .. Respondent in all W.Ps.

Common Prayer: Writ Petitions are filed under Article 226 of the Constitution of India, seeking for Writ of Certiorarified Mandamus to call for the records of the respondent in TIN 33621423371/2011-12, dated 30.04.2014, TIN 33621423371/2012-13, dated 30.04.2014 and TIN 33621423371/2013-14, dated 23.05.2014, respectively, and quash the same as illegal, unconstitutional and arbitrary and direct the respondent to consider the principle laid down in W.P.No.4042/2008 with regard to computer peripherals and to pass fresh orders of assessment.

For Petitioner : Mr.R.Ganesh Kanna
(in all W.Ps.)

For Respondents : Mr.Kanmani Annamalai
(in all W.Ps.) Additional Government Pleader

COMMON ORDER

Heard Mr.R.Ganesh Kanna, learned counsel appearing for the petitioner and Mrs.Vausdha Thiagarajan, learned Additional Government Pleader appearing for the respondent. With the consent of the learned counsels appearing on either side, the Writ Petitions are taken up for final disposal.

2. In these Writ Petitions, the petitioner has challenged the orders assessing the petitioner to higher rate of tax for the years 2011-12, 2012-13 and 2013-14. The issue involved in all these 3 years is one and the same. The petitioner's place of business was inspected by the Enforcement Wing Officials and certain defects were pointed out. Based on the report of the Enforcement Wing, notice was issued by the respondent, dated 11.04.2014 proposing to levy tax on the sales turnover of 'Cheque Scanner'.

3. The petitioner filed their objections pointing out that those are computer peripherals and cannot function without a computer. However, the respondent, without discussing any of the contentions raised by the petitioner, in a single line, has concluded that under the Tamil Nadu Value Added Tax Act, 2006 (hereinafter called as 'TNVAT Act'), IT products are listed out and on verification of the list, Cheque Scanners are not included.

4. The issue, which came up for consideration before the Hon'ble Division Bench of this court in the case of Canon India Private Ltd. and Others vs. State of Tamil Nadu in W.P. No.4042 of 2008, dated 17.07.2013, is as to whether ink cartridges or tonner cartridges are parts and accessories of the printer, which are peripheral to a computer system. The Hon'ble Division Bench held that they are parts and accessories of printer, which were peripheral to a computer and would be covered under 22 & 24 of Serial No.68, Part B of the First Schedule to the TNVAT Act. Therefore, respondent could not have mechanically rejected the petitioner's contentions merely because the Cheque Scanners are not mentioned in the list of IT products, but the endeavour should be to ascertain as to whether it should be a computer peripheral.

5. Therefore the matter has to be remanded back to the respondent for fresh consideration. Accordingly, the Writ Petitions are allowed, the impugned orders are set aside and the matter is remanded to the respondent for fresh consideration, who shall afford an opportunity of personal hearing to the petitioner and redo the assessment in accordance with law. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

pvs
To

The Assistant Commissioner (CT)
Alwarpet Assessment Circle,
Chennai - 600 028.

+1 CC to Spl. Government Pleader, Sr.No.48937

W.P.No.15484 to 15486 of 2014

LRS (CO)
MD : 17/10/2016