IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2016

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.Nos.25770 and 25771 of 2015
and
M.P.Nos.1 and 1 of 2015

Tvl.Shri Ganesa Textiles,
Represented by its Proprietor
No.21, Pollachi Road,
Palladam - 641 664. .. Petitioner in both W.Ps

Vs

The Commercial Tax Officer (CT)
Palladam. .. Respondents in both W.Ps.

Prayer in W.P.No.25770 of 2015: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records of the order of the respondent dated 29.07.2015 in TIN 33326240362/2012-2013 and quash the same.

Prayer in W.P.No.25771 of 2015: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records of the order of the respondent dated 29.07.2015 in TIN 33326240362/2013-2014 and quash the same.

For Petitioner in both W.Ps. : Mr.Adhithya Reddy for M/s.Swarnam Rajagopalan

For Respondent in both W.Ps. : Mr.Manokaransundaram Additional Government Pleader



COMMON ORDER

Heard Mr.Adhithya Reddy representing M/s.Swarnam Rajagopalan, learned counsel appearing for the petitioner and Mr.Manokarasundaram, learned Additional Government Pleader appearing for the respondent and with their consent, these Writ Petitions were taken up for final disposal.

2.In these writ petitions, the petitioner who is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax, 2006 (TNVAT Act) (hereinafter referred to as "the Act") has challenged the orders of assessment. The only ground canvassed by the learned counsel for the petitioner is by contending that the impugned orders of assessment has been passed in violation of principles of natural justice. It is seen that pre-revision notices were issued to the petitioner during March 2015. Though the petitioner was granted opportunity of 15 days time to file their objections, the petitioner did not filed. However, the petitioner does not dispute this fact and accepts that they did not file the objections within the said time. The petitioner's case is that the pre-revision notices itself came to be issued based on the inspection done by the Enforcement Wing Officers in the business premises of the petitioner and the petitioner submitted their objections to the report of the Enforcement Wing by letter dated 05.12.2014 and the petitioner had also sent the same objections to the respondent in the said letter dated 05.12.2014. Further, the petitioner contended that the said letter dated 05.12.2014 was received by the first respondent on 09.12.2014 as evidenced by the postal acknowledgment card. Therefore, it is submitted that it is not as if the petitioner has not objected to the pre-revision notices and therefore, the authority should have been taken note of their objection dated 05.12.2014 and afforded an opportunity of personal hearing to the petitioner which they have not done.

3.At the time, when the writ petitions were entertained, this Court directed the learned Additional Government Pleader to get the original file to verify as to whether the objections dated 05.12.2014 has been received by the respondent.

4.Today (16.06.2016), the learned Additional Government Pleader has produced the original file, from which, it is seen that the said letter has been received by the respondent and it is in page No.65 of the file. Therefore, the petitioner could have been granted one more opportunity before proceeding to finalize the assessment exparte.



5.In the light of the above, the writ petitions are allowed and the impugned orders are set aside. The petitioner is directed to submit their objections to the notices issued during March 2015 within a period of fifteen days from the date of receipt of a copy of this order. On receipt of the objections, the respondent shall afford an opportunity of personal hearing to the petitioner and consider the documents and objections raised and proceed to finalize the assessment in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

The Commercial Tax Officer (CT),
Palladam.

+1cc to Mr.Swarnam J.Rajagopalan, Advocate sR.33178
+1cc to the Special Government Pleader Sr.33530

W.P.Nos.25770 and 25771
of 2015
and
M.P.Nos.1 and 1 of 2015

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srg 29/06/2016