In the High Court of Judicature at Madras

Dated : 20.6.2016

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.26599 to 26605 of 2015
& MP.Nos.1, 1, 1, 1, 1, 1 and 1 of 2015

Tvl.Krishna Impex, rep.by
its Partner Jasthi Harish ...Petitioner in all the WPs

Vs

1.The Commercial Tax Officer,
Loansquare Assessment Circle,
Mezzanine Floor, Wavoo Annexe
Building,49/38 Rajaji Salai, Chennai-1.

2.The Principal Secretary/Commissioner
of Commercial Taxes, Chepauk,
Chennai-5. ... Respondents in all the WPs

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorari to call for the records on the file of the first respondent respectively in TIN : 33890140834/2007-08; TIN : 33890140834/2008-09; TIN : 33890140834/2009-10; TIN : 33890140834/ 2010-11; TIN : 33890140834/2011-12; TIN : 33890140834/2012-13; and TIN : 33890140834/2013-14, all dated 10.8.2015 and quash the same as illegal, without jurisdiction and against the principles of natural justice.

For Petitioner : Mr.A.Chandrasekaran

For Respondents : Mr.V.Haribabu, AGP

COMMON ORDER

Heard both. By consent, the writ petitions are taken up for final disposal.

2. The petitioner, which is a registered dealer on the file of the respondent under the Tamil Nadu Value Added Tax Act, 2006 (hereinafter referred to as the Act) and the Central Sales Tax

Act, 1956, has questioned the impugned notices calling upon the petitioner to file their objections where-under the first respondent proposed revise the assessments for the years from 2007-08 to 2013-14.

3. The petitioner raised several grounds and the main ground is that the first respondent has no jurisdiction to issue the impugned notices, since the petitioner has changed the place of business and their new assessing officer is the Assistant Commissioner (CT), Cholavaram Assessment Circle. 4. However, the said assessing Officer namely the Assistant Commissioner (CT), Cholavaram Assessment Circle has not been made as a party to these writ petitions.

5. Apart from that, the petitioner contended that the show cause notices could not have been solely based on the report of the Enforcement Wing officials and the first respondent ought to have taken note of the decision of the Hon'ble Supreme Court in the case of State of Tamil Nadu Vs. M.K.Kandasami [reported in (1975) 36 STC 191].

6. In my view, the factual aspects need not be gone into at this stage of the matter for two reasons. Firstly, if it is a jurisdictional issue, then it is always open to the jurisdictional Assistant Commissioner of Commercial Taxes to take action. Secondly, the impugned proceedings being only show cause notices, all points can be canvassed before the Authority concerned.

7. Accordingly, the writ petitions are disposed of by directing the first respondent to forward the entire files to the Assistant Commissioner (CT), Cholavaram Assessment Circle and it is open to the said Assessing Officer to proceed in accordance with law. If there is any permission to be obtained from the second respondent, the first respondent can do so prior to transferring the files. It is made clear that in the event of Assistant Commissioner (CT), Cholavaram Assessment Circle initiates any proceedings, the petitioner is at liberty to raise all contentions. No costs. Consequently, the above MPs are closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

1.The Commercial Tax Officer, Loansquare Assessment Circle,
Mezzanine
Floor, Wavoo Annexe Building,
49/38 Rajaji Salai,
Chennai-1.

2.The Principal Secretary/Commissioner of Commercial Taxes,
Chepauk,
Chennai-5.

3.The Assistant Commissioner(CT),
Cholavaram Assessment Circle.

+1cc to Special Government Pleader Sr.34344

WP.Nos.26599 to 26605/2015 &
MP.Nos.1,1,1,1,1,1 and 1 of 2015

sv[co]
srg 04/07/2016