IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: **16.06.2016**

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.19606 to 19609 of 2016

Charbuja Glass Ply Wood Hardwares
Rep by its Proprietor V.Saravana Dass
NO.15/6 Kamaraj Nagar
Annai Indira Gandhi Salai, Panruti.
.. Petitioner in all W.Ps.

Vs

1 The Assistant Commissioner (CT) (FAC)
Panruti (Town)
Panruti.
.. Respondent in all W.Ps.

Common Prayer: The Writ Petitions are filed under Article 226 of the Constitution of India, seeking for Writ of certiorari to call for the records on the files of the Respondent herein in TIN.33924481131/ 2009-10; TIN.33924481131/2010-11; TIN.33924481131/2013-14 & TIN.33924481131/2014-15 dated 15.4.2016 & 29.04.2016, respectively and for quashing the same.

For Petitioner : Mr.N.Inbarajan

For Respondent : Mr.Manokaran Sundaram
Addl. Government Pleader

COMMON ORDER

Heard Mr.N.Inbarajan , learned Counsel appearing for the petitioner and Mr.Manokaran Sundaram, learned Additional Government Pleader accepting notice on behalf of the respondent and with the consent of learned counsel appearing on either side, this writ petitions are taken up for final disposal.

2.In these Writ Petitions, the petitioner who is a registered dealer under the provisions of the Tamil Nadu Vat Act, 2006, has challenged the orders of assessment for the years 2009-10, 2010-11; 2013-14 & 2014-15.

3.The respondent issued notices to the petitioner for all the four years by notice dated 10.12.2015, stating that verification of the purchase details from the other dealer Annexure-II along with purchase details furnished in Form No.I by the petitioner, certain omissions were noticed. Therefore, the respondent proposed to treat the purchase omissions as sales omissions by adding freight and G.P. That apart, the respondent proposed to levy penalty under section 27(3) of the Act. On receipt of the notices, the petitioner sent a reply on 12.01.2016, totally denying the allegations made in the notice and stated that no purchases reflected in their accounts and they may be given time to verify the same and given an opportunity to cross examine the said dealers and as the VAT Act confers jurisdiction on the respondent to get further particulars from them. Further, it was stated that in the absence of any details, it cannot be assumed a purchase suppression and therefore, while objecting to the proposal for revision of assessment, the petitioner requested the respondent to provide particulars and thereafter they may be given time for filing further objections.

4.The respondent on receipt of their reply dated 12.01.2016, ought to have sent a reply to the petitioner and furnished the particulars sought for. However, the respondent in a most arbitrary and unreasonable manner, referred to the reply dated 12.01.2016 as objections and proceeded to finalise the assessments.

5.The reasons assigned by the respondent are contained in paragraph No.4 of the impugned orders of assessment and in my view, the reasons are absolutely perverse. The assessing authority being an Adjudicating Authority has to follow the basic legal principles and in the instant case, the petitioner sought for particulars and without furnishing the particulars if the respondent has proceeded, it clearly amounts to abuse of power vested with the Assessing Officer. Therefore, this Court has no hesitation to hold that the impugned orders of assessment are patently illegal, in violation of principles of natural justice and outcome of non application of mind.

6.In the light of the above particulars, the Writ Petitions are allowed and the impugned orders are quashed and the respondent is directed to furnish all particulars sought for by the petitioner and after the particulars are furnished, the petitioner should be given sufficient time to submit their objections and after affording an opportunity of personal hearing, the respondent is directed to pass orders on merits and in accordance with law, as expeditiously as possible. No costs. Consequently, connected Miscellaneous

10.06.2016

rpa

To

1 The Assistant Commissioner (CT) (FAC)
Panruti (Town)
Panruti.

T.S.SIVAGNANAM, J.,
rpa

W.P.Nos. 19606 to 19609 of 2016

10.06.2016