IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.09.2016

CORAM:

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

Writ Petition Nos.20860 to 20863 of 2016
and
W.M.P.Nos.17873 to 17876 of 2016

Tvl.Kuber Technology
rep.by its Proprietor Mr.RRakesh J.Rathore
.. Petitioner in all the W.Ps.

Vs.

The Commercial Tax Officer,
Chintadripet Assessment Circle,
Chennai
.. Respondent in all the W.Ps.

Petitions filed under Article 226 of the Constitution of India for the issuance of Writ of Certiorari calling for the records of the respondent in TIN No.33080583163/2011-12 to 2014-15, respectively, dated 31.3.2016, quash the same.

For Petitioner : Mr.S.Raveekumar

For Respondent : Mr.S.Kanmani Annamalai
Additional Government Pleader

COMMON ORDER

Heard Mr.S.Raveekumar, the learned counsel for the petitioner and Mr.S.Kanmani Annamalai, the learned Additional Government Pleader, for the respondent and with the consent of either side, the writ petitions are taken up for final disposal.

2. The petitioner is a registered dealer under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (TNVAT Act) and an assessee on the file of the respondent both under the TNVAT Act and Central Sales Tax Act. In all these writ petitions, the petitioner has challenged the orders of assessment, under the TNVAT Act, for the years 2011-12 to 2014-15. The petitioner's contention is that three grounds have been pointed out in the impugned proceedings for directing reversal

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of the input tax credit and all the three grounds pertain to the same set of transactions.

3. Firstly it is pointed out that the petitioner has effected transactions with registration cancelled dealers and therefore, Input Tax Credit cannot be availed. Secondly, it is stated that on verification of the Department's Intranet website, it is found that the dealers have not shown some purchases in Annexure-I statement, but the sellers have reported the sales, which were effected to them, in their Annexure-II statement. Thirdly it is stated that there is difference in the purchase turnover shown in the balance-sheet and the purchase turnover shown in the returns.

4. The learned counsel for the petitioner would submit that on the date when the petitioner effected transactions, the vendors of the petitioner were all active dealers. Further it is submitted that the verification done through the Intranet website cannot be the sole basis for revision of assessments, especially, when the petitioner has sought for relevant particulars.

5. Heard the learned Additional Government Pleader on the above submissions and also perused the impugned assessment orders.

6. From a perusal of the impugned assessment orders it is seen that the petitioner though has sought for certain details, the same have not been furnished to the petitioner and the assessments have been completed. Therefore, this Court is of the view that the matter can be remanded to the respondent for fresh consideration so as to enable the petitioner to produce proof to show that the dealers with whom they had transactions had valid registration, on the date of transaction. Apart from that, the petitioner can seek for details with regard to cross verification of the buyers and sellers as per Annexure-I and such details can be furnished by the assessing officer and after which, the petitioner can be allowed to submit further objections and assessments can be re-done.

7. In the light of the above, the writ petitions are allowed, the impugned orders are set aside and the matter is remanded to the respondent for fresh consideration. The petitioner shall first make a representation requesting the respondent for details which they require. Along with a letter, the petitioner shall produce proof to show that the registrations of the dealers with whom they had transactions were valid on the relevant date. After receipt of the details from the respondent, the petitioner is granted two weeks time to

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file additional objections and after receipt of the additional objections, the respondent is directed to re-do the assessments in accordance with law. No costs. Connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(J)

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Sub Assistant Registrar

msk
To

The Commercial Tax Officer,
Chintadripet Assessment Circle,
Chennai

4 ccs to Mr.S.Raveekumar, Advocate, sr.52178
1 cc to Special Government Pleader, (Taxes), sr.52399

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