IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 21.06.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.21059 to 21063 of 2016

Tvl. Space Crafts
Represented by its Proprietor, Hanifa M Mohammed
No.71-A, 2nd Floor
Spencer Plaza, No.769, Anna Salai
Chennai .. Petitioner in all W.Ps

Vs.

The Deputy Commercial Tax Officer
Anna Salai Assessment Circle
PAPJM Annex, 4th Floor
Greams Road
Chennai - 06 .. Respondent in all W.Ps

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari calling for the records in respect of Assessment Order of the Respondent in TIN 33660640753/2008-09, 2009-10, 2010-11, 2011-12, 2012-13 dated 20.05.2016 and quash the same.

For Petitioner : Mr.Adithya Reddy

For Respondents : Mr.V.Haribabau
Additional Government Pleader

O R D E R

Heard Mr.Adithya Reddy, learned counsel for the petitioner and Mr.V.Haribabu, learned Additional Government Pleader appearing for the respondent. With the consent of learned counsel appearing on either side, the writ petitions themselves are taken up for final disposal.

2. In all these writ petitions, the petitioner, who is a registered dealer under the provisions of the Tamil Nadu Value Added Tax Act, 2006, has challenged the impugned orders of assessment on the ground of lack of jurisdiction. The petitioner would contend that the respondent is an officer in the cadre of Deputy Commercial Tax Officer, who has power to make assessment only in respect of dealers whose total turnover per annum does not exceed Rs.75,00,000/-, subject to total tax effect not exceeding Rs.75,000/- per annum.

3. In this regard, the petitioner refers to a notification issued by the Government of Tamil Nadu in G.O.Ms.113, Commercial Taxes and Registration (B1) Department dated 05.09.2011 as well as G.O.Ms.No.134, CT(B1) dated 19.11.2002, which came into effect on 11.12.2002. It is submitted that in the impugned Assessment Orders, the total tax which has been assessed exceeds the threshold limit of Rs.75,000/-. By way of illustration, for the Assessment Years 2008-09, the total tax has been assessed at Rs.4,89,159/-. Therefore, it is submitted that the competent authority would be either Commercial Tax Officer or Assistant Commissioner of Commercial Taxes.

4. However, it is seen that in the objection submitted by the petitioner to the pre-revision notices dated 11.04.2016, such a plea was not raised and it is canvassed for the first time before this Court. Considering the fact that the objection raised by the petitioner touches upon the jurisdiction of the Assessing Officer, this Court is of the view that the petitioner should be granted an opportunity to raise such an issue. If the issue raised by the petitioner is found to be correct, the respondent should assign the files to the Officer, who is competent to make petitioner's assessment.

5. In the light of the above, the writ petitions are disposed of by granting two weeks time to the petitioner to appear before the respondent with an application for rectification under Section 84 of the Tamil Nadu Value Added Tax Act, 2006 enclosing the copies of the notification, which the petitioner proposes to rely upon for the purpose of determining the jurisdiction of the Assessing Officer and thereafter, proceed in accordance with law. If, in the opinion of the respondent, the contention raised by the petitioner is found to be correct as the petitioner places reliance upon the notifications issued by the Government, then the petitioner's file shall be assigned to the Officer, who is competent to value the petitioner's assessment. The petitioner may be afforded an opportunity of personal hearing before the order is passed. The

respondent is granted two weeks time to pass final orders on the application for rectification after the conclusion of the personal hearing. Till then, no coercive steps shall be taken against the petitioner pursuant to the impugned order. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

To

The Deputy Commercial Tax Officer,
Anna Salai Assessment Circle,
PAPJM Annex, 4th Floor,
Greams Road,
Chennai - 06.

+1cc to Mr.Adithya Reddy, Advocate Sr.34039
+1cc to the Special Government Pleader Sr.34787

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srg 29/06/2016