IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 15.09.2016

CORAM

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

W.P.Nos.35976 to 35981 of 2015
MP.1/2015

M/s.Sri Parthasarathy Automobiles
Rep.by its Proprietor Mr.K.Chellamuthu,
No.8/57, LGN Road, Anna Salai,
Chennai-600 002. ...Petitioner
in all Writ Petitions

-Vs-

1. The Commercial Tax Officer,
Thiruvallikeni Assessment Circle,
No.48, Pasumpon Muthuramalingathevar Salai,
Chennai-600 028.

2. The Commercial Tax Officer,
Group-VIII, Enforcement (East),
Greams Road,
Chennai-600 006. ...Respondents
in all Writ Petitions

COMMON PRAYER: Writ petitions filed under Article 226 of the Constitution of India praying to issue Writ of Certiorari or any other appropriate Writ direction or order or orders to call for the records of the first respondent in TIN..33780680069/2007-2008, 2010-2011, 2011-2012, 2012-2013, 2013-2014 and 2014-2015 respectively and quash the impugned proceedings dt.28/07/2015.

For Petitioner : Mr.V.Sundareswaran

For Respondents : Mr.S.Kanmani Annamalai
Additional Pleader Advocate (T)

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COMMON ORDER

Heard Mr.V.Sundareswaran, learned counsel for the petitioner, and Mr.S.Kanmani Annamalai, learned Additional Government Advocate appearing for the respondents.

2. These writ petitions have been filed for quashing the proceedings of the first respondent dated 28.07.2015, for the assessment years 2007-2008; 2010-2011; 2011-2012; 2012-2013; 2013-2014; 2014-2015.

3. The petitioner who is a registered dealer under the provisions of the Tamil Nadu Value Added Tax Act, 2006 [TNVAT Act], has come forward with these writ petitions challenging the assessment orders for the years 2007-08, 2010-11, 2011-12, 2012-13 and 2013-14. The first ground on which the order has challenged is by contending that no revision notice was received by the petitioner before the impugned orders were passed. However, in the impugned orders it has been clearly recorded that though that the petitioner received notices on 23.06.2015, they did not file any objection. The petitioner could not establish the fact to the contrary. Therefore this Court comes to the conclusion that there was a service of notice.

4. Pre-revision notices were issued based on verification of monthly returns of the petitioner and it was stated that, the petitioner has claimed input tax credit on purchases made from United India Limited, M/s Ashok Leyland and M/s Metropolitan Transport Corporation and they have not reported the same in Annexure II of their returns and therefore, input tax claim is proposed to be disallowed. The petitioner's case is that the tax has been paid, for which purpose, they approached M/s Ashok Leyland and obtained letter from them dated 26.10.2015, by which M/s Ashok Leyland has confirmed the VAT payment on supply of scrap iron and steel to the petitioner for the last few years and to be specific from 2010 onwards. Armed with this certificate, the petitioner has approached the respondent by filing a Petiton under section 84 of TNVAT Act for rectification of the assessment. The said Application is still pending with the authority.

5. In the light of the above, the respondent is directed to consider the petitioner's application for rectification dated 17.10.2015, after affording an opportunity of personal hearing to the petitioner and after obtaining necessary information from

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the assessing officer of the petitioner's vendor namely M/s Ashok Leylands, M/s Metro Transport Corproation, and United India Insurance Company Limtied, and thereafter pass a speaking order on merits and in accordance with law. In the event the respondent finds that there is a proof to show that the VAT has been paid by those organisations from whom the petitioner had purchased the scrap materials, then the respondent shall rectify the impugned orders of assessments in accordance with law. Until the above direction is complied with, no coercive action shall be initiated against the petitioner for recovery of tax and penalty as assessed.

6. The Writ Petitions are disposed of on the above terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

RPA/KP

To

1. The Commercial Tax Officer,
Thiruvallikeni Assessment Circle,
No.48, Pasumpon Muthuramalingathevar Salai,
Chennai-600 028.

2. The Commercial Tax Officer,
Group-VIII, Enforcement (East),
Greams Road, Chennai-600 006.

1 CC to Mr.V.Sundareswaran, Advocate, SR. 52488

SVI (CO)
PSI 05/10/2016

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