IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.06.2016

Coram

The Hon'ble Mr.Justice T.S.Sivagnanam

Writ Petition Nos.21322 to 21325 of 2016 (4 cases)
and
W.M.P.Nos.18252 to 18255 of 2016

M/s.Maruthi Traders
rep by its Proprietor
No.138, Sundakkamuthur Road,
Coimbatore. ...Petitioner in all W.Ps.

Vs.

The Commercial Tax Officer,
Perur Assessment Circle,
Coimbatore. ...Respondent in all W.Ps.

Prayer in W.P.Nos.21322 to 21324 of 2016:

Writ Petitions filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for records of the respondent and to quash the assessment proceedings of the respondent in TIN No.33381923053/2012-13, 2013-14 and 2014-15, respectively, dated 06.01.2016, and to direct the respondent to pass fresh orders by providing an opportunity to cross examine the alleged parties, who had issued sale bill in the name of the petitioner and also to provide an opportunity of personal hearing to the petitioner.

Prayer in W.P.No.21325 of 2016:

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for records of the respondent and to quash the assessment proceedings of the respondent in TIN No.33381923053/2007-08, dated 06.01.2016, as illegal and to direct the respondent to furnish the details of informations obtained from the Departmental Website for the mismatch of the alleged purchases of the petitioner, based on the various judicial pronouncements of this Court.

In all W.Ps.

For Petitioner : Mr.C.Baktha Siromoni

For Respondent : Mr.S.Manoharan Sundaram
Additional Government Pleader

COMMON ORDER

Heard Mr.C.Baktha Siromoni, learned counsel appearing for the petitioner, and Mr.S.Manoharan Sundaram, learned Additional Government Pleader, for the respondent, and with the consent on either side, the Writ Petitions are taken up for disposal.

2. The petitioner, who is a registered dealer, on the file of the respondent, under the provisions of Tamil Nadu Value Added Tax Act, 2006 (hereinafter, referred to as 'TNVAT Act') has filed these Writ Petitions, challenging the orders of assessment for the years 2007-08, 2012-13, 2013-14 and 2014-15.

3. It is seen that the respondent issued a pre-revision notice to the petitioner, and, it appears that the same was returned with a postal endorsement, ''No Such Addressee in the Door Number", and it was returned to the sender. In the impugned orders of assessment, the respondent has recorded that the petitioner has refused to receive the notice, though he was present, which shows that the petitioner/dealer has not cooperated with the Department, and not ready to receive the notice and file reply, but the notice was served by affixture. In such circumstances, the conduct of the dealer cannot be ignored. If the petitioner has refused to receive the notice, then, there is no reason for this Court to entertain these Writ Petitions, and to permit the petitioner to bypass the Appeal remedy.

4. The petitioner's case is that they have surrendered the registration certificate as early as on 30.11.2011, and to show that they surrendered the registration certificate, the petitioner has produced the copy of the Local Delivery Book. I do not accept the Local Delivery Book as proof of surrender of the registration certificate. Therefore, on the grounds raised by the petitioner, this Court cannot test the correctness of the impugned orders passed by the respondent, since disputed questions of fact are involved in these Writ Petitions. Hence, it is open to the petitioner, either to seek for rectification of the orders passed by the respondent, by invoking power under Section 84 of the TNVAT Act by filing a Petition, or to file an Appeal before the Appellate Authority, challenging the impugned orders of assessment.

5. In the result, the Writ Petitions are dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

To

The Commercial Tax Officer,
Perur Assessment Circle,
Coimbatore.

Copy to:
The Section Officer,
Current Section,
high Court,
Madras.

+1 cc to Spl.Govt.pleader,sr.37476.

tm(co)
krd 22/7

Writ Petition Nos.21322 to
21325 of 2016 (4 cases)