IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.01.2016

CORAM

THE HON'BLE Mr. JUSTICE R.MAHADEVAN

W.P. Nos.39849 and 39850 of 2015
and
M.P.Nos.1 and 2 of 2015

M.Kalaiselvan
Proprietor of Kalaiselvan Agency,
... Petitioner in both W.Ps.

Vs.

1. The Appellate Deputy Commissioner (CT),
No. 17, Pitchards Road,
Hasthampatti, Salem - 636007.

2. The Commercial Tax Officer,
Attur (Rural) Assessment Circle,
Attur TK, Salem - 636112. ... Respondents 1 and 2 in both W.Ps.

PRAYER IN W.P. NO. 39849 of 2015:- Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamaus to call for the records of the second respondent in the impugned order in TIN No. 33193261224/2013-14 dated 30.12.2014 to quash the same as it is violative of Section 27 of the TNVAT Act, 2006 and the Circular No. 7/2014 (BB1/3589/2014) dated 03.02.2014 issued by the Commissioner of Commercial Taxes and also against the principles of natural justice, and to direct the 2nd respondent to pass orders in accordance with law after granting an opportunity of being heard to the petitioner.

PRAYER IN W.P. NO. 39850 OF 2015:- Petition filed under Article 226 of The Constitution of India praying to issue a writ of certiorarified mandamaus to call for the records of the second respondent in the impugned order in TIN No. 33193261224/2014-15 dated 30.12.2014 to quash the same as it is violative of Section 27 of the TNVAT Act, 2006 and the Circular No. 7/2014 (BB1/3589/2014) dated 03.02.2014 issued by the Commissioner of Commercial Taxes and also against the principles of natural justice, and direct the 2nd respondent to pass orders in accordance with law after granting an opportunity of being heard to the petitioner.

For Petitioner : Mr.K.Vaitheeswaran.
For Respondents : Mr.S.Kanmani Annamalu,
Addl. Government Pleader (Tax)

COMMON O R D E R

As the issues involved in these writ petitions and the parties herein are one and the same, these Writ Petitions have been taken up together and disposed of vide this common order.

2. Challenging the revised order under Section 27 of the TNVAT Act, 2006 by the second respondent for the assessment years 2013-14 and 2014-15, in TIN Nos. 33193261224/2013-14 and 33193261224/2014-15 respectively, dated 30.12.2014, and the Circular No. 7/2014 (BB1/3589/2014) dated 03.02.2014, issued by the Commissioner of Commercial Taxes, the present writ petitions are filed. Furthermore, a direction is sought for by the petitioner against the 2nd respondent to pass orders in accordance with law after granting an opportunity of being heard.

3. Heard learned counsel appearing for the petitioner and the learned Additional Government Pleader for the respondents.

4. During the last hearing the learned counsel appearing for the petitioner specifically submitted that no opportunity of personal hearing was granted to the petitioner while passing such orders of assessment, which submission is stoutly refuted by the learned Additional Government Pleader appearing for the respondents, and to that effect, he wanted to file counter affidavit in connection with the present writ petitions.

5. When the Writ Petitions are taken up today, the learned counsel for the petitioner submitted that though a larger prayer is sought for, since various factual aspects are involved herein, it would be suffice, if the petitioner is granted liberty to go before the Appellate Authority by way of filing Appeal, challenging the order of the 2nd respondent. There is no serious objection on the part of the Additional Government Pleader for such relief being granted.

6. In the light of the above, these writ petitions are disposed of, by permitting the petitioner to file Appeal challenging the orders passed by the second respondent, dated 30.12.2014, within a period of two weeks from the date of receipt of the copy of this order. On such filing, the same shall be entertained by the Appellate Authority, without raising any dispute with regard to limitation, and necessary orders be passed on the said appeal on merits and in

accordance with law after affording due opportunity of personal hearing to the petitioner.

7. With the above directions, the writ petitions are disposed of. Consequently, connected miscellaneous petitions are closed. No costs.

sd/-
Assistant Registrar(Cs-VI)

/TRUE COPY/

Sub-Assistant Registrar

Note: Registry is directed to return the original impugned order to the petitioner by replacing it with the certified copy of the same.

rms/sd

To

1. The Appellate Deputy Commissioner (CT),
No. 17, Pitchards Road,
Hasthampatti, Salem - 636007.

2. The Commercial Tax Officer,
Attur (Rural) Assessment Circle,
Attur TK, Salem - 636112.

+1 CC to MR.K.Vaitheeswaran. Advocate. SR.NO. 3896
+1 CC to Special Govt.Pleader(Taxes). SR.NO. 4141

W.P. Nos.39849 and 39850 of 2015

CO-SV
JD 12/02/2016