IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 05.07.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.23013 & 23014 of 2016

Bharatiya International Ltd.,
rep. by its Authorised Signatory
C.Deenadayalan ... Petitioner in both W.Ps.

Vs

The Commercial Tax Officer
Vepery Assessment Circle
No.10, Greams Road,
Chennai 600 006. ... Respondent in both W.Ps.

Prayer in W.P.No.23013 of 2016: The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of certiorarified mandamus to call for the impugned proceedings of the respondent passed in TIN No.33050522312/2011-12 & 2012-13 dated 18.05.2016 and quash the same in so far as it relates to rejection of refund claim amount of Rs.1,69,815/- (Rs.1,49,322+ Rs.20,493/-) and further direct the respondent to consider the rejection of refund claim to the extent of Rs.1,49,322/- for the month of March 2012 and Rs.20,943/- for the month of April 2012 in total amounting to Rs.1,69,815/-.

Prayer in W.P.No.23014 of 2016: The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of certiorarified mandamus to call for the impugned proceedings of the respondent passed in TIN No.33050522312/2012-13 dated 23.05.2016 and quash the same in so far as it relates to rejection of refund claim amount of Rs.86,615/- (Rs.35,425 + 51,190) and further direct the respondent to consider the rejection of refund claim to the extent of Rs.35,425/- for the month of May 2012 and Rs.51,190/- for the month of June 2012 in total amounting to Rs.86,615/-.

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For Petitioner : Mr.N.Murali

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

COMMON ORDER

Heard Mr.N.Murali, learned Counsel appearing for the petitioner and Mr.S.Manokaran Sundaram, learned counsel appearing on behalf of the respondents and with the consent of learned counsel appearing on either side, the writ petitions are taken up for final disposal.

2.The petitioner who is a registered dealer under the provisions of the Tamil Nadu Value Added Tax Act, 2006 [TNVAT Act], has filed W.P.No.23013 of 2016, challenging the impugned order dated 18.05.2016, in so far as it rejects the refund claim amount of Rs.1,69,815/- and further direct the respondent to consider the rejection of refund claim to the extent of Rs.1,49,322/- for the month of March 2012 and Rs.20,943/- for the month of April 2012 in total amounting to Rs.1,69,815/-. The petitioner has also filed W.P.No.23014 of 2016, challenging the impugned order dated 23.05.2016, in so far as it relates to rejection of refund claim amount of Rs.86,615/- and further direct the respondent to consider the rejection of refund claim to the extent of Rs.35,425/- for the month of May 2012 and Rs.51,190/- for the month of June 2012 in total amounting to Rs.86,615/-.

3.On a perusal of the impugned proceedings, it is evidently clear that in respect of the portion of the refund claims, the respondent has accepted and sanctioned refund to the tune of Rs.13,44,408 and Rs.10,91,411/-, respectively. However, while rejecting the other claim as ineligible, the respondent did not issue any show cause notice nor in the impugned proceedings there is any reason assigned by the respondent as to why those claims were not admissible. Therefore, to that extent, the impugned orders are in violation of the principles of natural justice.

4.Accordingly, the Writ Petitions are allowed and the impugned orders in so far as it rejects the refund claims are quashed and the matter is remanded to the respondent, who is directed to issue show cause notices to the petitioner, within a period of two weeks from the date of receipt of a copy of this order, clearly indicating as to the reasons based on which the respondent proposes to reject the Refund Applications. On receipt of such notice, the petitioner is entitled to submit his objections, within a period of two

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weeks thereafter and on receipt of the objections, the respondent is directed to afford an opportunity of personal hearing to the petitioner and pass written orders on merits and in accordance with law, within a period of two weeks from the date of receipt of the objections to be submitted by the petitioner. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

Rpa

To

The Commercial Tax Officer
Vepery Assessment Circle
No.10, Greams Road,
Chennai 600 006.

+2cc's to Mr.N.Murali, Advocate, S.R.No.37561
+1cc to the Special Government Pleader(T), S.R.No.38188

W.P.Nos.23013 & 23014 of 2016

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