IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 05.07.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.23157 to 23160 of 2016

MAXX FURN SYSTEMS
rep. by its Proprietor
Tondiarpet, Chennai-81. ...Petitioner in all W.Ps.

Vs

The Commercial Tax Officer
Tondiarpet Assessment circle
No.19 & 20, Kummalamman Koill Street
Tondiarpet,
Chennai 600 081. ...Respondent in all W.Ps.

Prayer in W.P.No.23157 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 CST/959984/2011-12 dated 06.05.2016 and quash the same and further direct the respondent to re do the assessment in accordance with the law.

Prayer in W.P.No.23158 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 CST/959984/2011-12 dated 24.06.2016 and quash the same and further direct the respondent to redo the assessment in accordance with the law.

Prayer in W.P.No.23159 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 CST/959984/2012-13 dated 31.03.2016 and quash the same and further direct the respondent to redo the assessment in accordance with the law.

Prayer in W.P.No.23160 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 CST/959984/2012-13 dated 24.06.2016 and quash the same and further direct the respondent to redo the assessment in accordance with the law.

For Petitioner : Mr.N.Murali

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

C O M M O N O R D E R

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

2.The petitioner is a registered dealer under the provisions of the Tamil Nadu Value Added Tax, 2006 [TN VAT Act] and also under the provisions of Central Sales Tax Act, 1956 [CST Act] and in these Writ Petitions, the petitioner has challenged the orders of assessment under the Central Sales Tax Act, for the assessment year 2011-12 and 2012-13 and revised the assessment orders, which have been passed for the very same years under the provisions of the Central Sales Tax Act.

3.The petitioner challenged the impugned proceedings on the ground that an opportunity of personal hearing was not afforded to him.

4.From the impugned proceedings, it is seen that the petitioner did not file objections to the notice issued by the respondent to complete the assessment. Therefore, it is not the case of violation of principles of natural justice, but, a case where the petitioner failed to utilise the opportunity granted. So far as the revision of assessment is concerned, the same has been done without notice to the petitioner.

5.The learned counsel for the petitioner submitted that if an opportunity is granted to the petitioner to submit objections and to appear in person before the Assessing Officer, the petitioner will be in a position to clarify all the factual issues and the matter could be finalised at the earliest.

6.Considering the fact that the petitioner did not utilise the opportunity at the first instance, this Court is of the view that the petitioner if to be afforded a fresh opportunity, he should be put on terms. However, since the revised order was passed without notice to the petitioner, this Court is of the view that the petitioner should be directed to pay a portion of the tax, which has been determined in terms of the original order dated 06.05.2016 and 31.03.2016.

Accordingly, the Writ Petitions are disposed of with the following directions:

(i) The petitioner is directed to pay 15% of the disputed tax for each of the assessment years as determined in the original order of assessment dated 06.05.2016 and 31.03.2016, within a period of three weeks from the date of receipt of a copy of this order. If the petitioner complies with the condition, the petitioner would be entitled to the following reliefs:

(a) The petitioner is entitled to treat the impugned proceedings i.e. original order of assessment dated 06.05.2016 and 31.03.2016 and the revised orders dated 24.06.2016, as show cause notices and submit objections within a period of fifteen days from the date on which the petitioner effects payment of 15% tax as ordered above.

(b) On receipt of the objections, the respondent shall afford an opportunity of personal hearing to the petitioner and redo the assessment in accordance with law.

No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

Rpa

To

The Commercial Tax Officer
Tondiarpet Assessment circle
No.19 & 20, Kummalamman Koill Street
Tondiarpet, Chennai 600 081.

+4cc to Mr.Mr.N.Murali, Advocate, S.R.No. 37560

+1cc to the Government Pleader, S.R.No. 38190

W.P.Nos. 23157 to
23160 of 2016

KS (CO)
PSI (23/07/2016)