IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE:14.07.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.24084 to 24088 of 2016 &
WMP.Nos.20613 to 20617 of 2016

M/s.Wings (A Shoe Shop)
Rep. By its Partner Mr.P.Srinivasan
No.265, Paper Mills Road,
Perambur, Chennai - 600 011. .. Petitioner in all WPs.

Vs.

1.The Commercial Tax Officer,
Perambur Assessment Circle,
Chennai - 600 099.

2.The Commercial Tax Officer,
Grade - I, Central Enforcement Wing-I,
Enforcement-I,
PAPJM Buildings, Greams Road,
Chennai - 600 006. .. Respondents in all WPs.

Prayers: Petitions filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus to call for the records of the first respondent in TIN 33941041500/2010-11 dated 20.05.2016; TIN 33941041500/2011-12 dated 19.05.2016; TIN 33941041500/2012-13 dated 16.05.2016; TIN 33941041500/2013-14 dated 17.05.2016; TIN 33941041500/2014-15 dated 13.05.2016, quash the same and further direct the first respondent to confer the benefit of compounded rate of tax at ½% (.5%) as envisaged under Section 3(4) of the Tamil Nadu Value Added Tax Act, 2006 and consequently refund the amount of tax paid on 08.07.2015.

In all WPs.
For Petitioner : Mr.V.Sundareswaran

For Respondents : Mr.S.Kanmani Annamalai, AGP [Taxes]

COMMON ORDER

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

Additional Government Pleader accepts notice for the respondents and with their consent, the Writ Petitions itself are taken up for final disposal.

2.The petitioner is a registered dealer under the provisions of the Tamil Nadu Value Added Tax Act, 2006 and Central Sales Tax Act, 1956. The petitioner, in these writ petitions, have challenged the orders of assessment for the years 2010-2011, 2011-2012, 2012-2013, 2013-2014, 2014-2015. The primary ground on which the impugned orders have been challenged is by contending that in spite of the fact that the petitioner had produced the original bill books and furnished all the details in a tabulated format, the Assessing Officer has completed the assessment by observing that the petitioner has not produced any documentary evidence in spite of availing the opportunity granted. Further, it is submitted that the petitioner has not filed any objections at the time of inspection. In page No.70 of the typed set of papers, the petitioner has produced a copy of a receipt issued by the Assessing Officer stating that the bills have been received on 03.02.2016. In such circumstances, it is not known as to why the Officer should record that the petitioner has not produced the documents. That apart, on a perusal of the impugned order, it is shown that the Officer has extracted the objections given by the petitioner in its entirety. But, however, the finding is only in the last paragraph stating that the petitioner's authorised representative appeared before the Officer on 29.01.2016 and personal hearing was offered. But, they have not furnished any documentary evidences. This observation made in the impugned orders are contrary to the receipt issued by the Officer acknowledging the receipt of the bills on 03.02.2016.

3.That apart, the Assessing Officer, being a statutory authority, has to independently apply his mind to the objections given by the dealer and should act uninfluenced by any observations that might have been made by the Inspecting Officers. Therefore, to state that the petitioner has not raised any objections at the time of inspection is untenable, since it is the duty of the Officer to consider all the objections raised by the Petitioner and give reasons as to why it is acceptable or not acceptable. However, the impugned assessment orders have been passed in a most cryptic manner and therefore, they are called for interference.

4.Accordingly, the Writ Petitions are allowed and the impugned orders are set aside and the matter is remanded to the respondents, who shall afford an opportunity of personal hearing to the petitioner and perused the original bills, which the petitioner is produced and if any other documents is required, the petitioner should be given an opportunity to produce the same and thereafter, to proceed the assessment independently analysing the objections and passing a reasoned order. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

Sgl

To

1.The Commercial Tax Officer,
Perambur Assessment Circle,
Chennai - 600 099.

2.The Commercial Tax Officer,
Grade - I, Central Enforcement Wing-I,
Enforcement-I, PAPJM Buildings,
Greams Road, Chennai - 600 006.

1 cc to Special Government Pleader(T), sr.39531
1 cc to V.Sundareswaran, Advocate, sr.39903

W.P.Nos.24084 to 24088 of 2016

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kra 18.07.2016