IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.8.2016

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition Nos.29620 to 29624 of 2016

& WMP.Nos.25648 to 25652 of 2016

M/s.Radiant Filters Engineering
Pvt.Ltd., rep.by its Managing
Director ...Petitioner in all the WPs

Vs

The Commercial Tax Officer,
Madipakkam Assessment
Circle, Chennai-100. ...Respondent in all the WPs

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorarified Mandamus to call for the records of the respondent and quash the assessment proceedings respectively in TIN : 33490982141/2008-09 dated 30.9.2015, TIN : 33490982141/2009-10 dated 15.10.2015, TIN : 33490982141/2012-13 dated 15.10.2015, TIN : 33490982141/2010-11 dated 19.10.2015 and TIN : 33490982141/2011-12 dated 30.10.2015 as illegal and direct the respondent to furnish the details of information obtained from the Departmental website for the mismatch of purchases and pass fresh orders after verification of accounts of the petitioner after granting an opportunity of personal hearing to the petitioner.

For Petitioner in all the WPs : Mr.C.Baktha Siromani
For Respondent in all the WPs : Mrs.Vasudha Thiagarajan, AGP

COMMON ORDER

Mrs.Vasudha Thiagarajan, learned Additional Government Pleader accepts notice for the respondent. Heard both. By consent, the writ petitions are taken up for final disposal.

2. The petitioner is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (hereinafter referred to as the TNVAT Act). The petitioner is a manufacturer of micro filters and purchases raw

material and other goods required for such manufacturing activities from local registered dealers and also to dealers from other States.

3. In these writ petitions, the petitioner challenges the orders of assessment passed under the provisions of the TNVAT Act for the years 2008-09 to 2012-13.

4. The main ground, on which, the impugned orders have been challenged, is on the ground of violation of the principles of natural justice and on the ground that the respondent, without verifying the petitioner's accounts, arrived at the difference in purchase and sales turnover.

5. Though such a contention is raised by the learned counsel for the petitioner, it is seen that the petitioner did not file their objections to the pre-assessment notices dated 24.7.2015. Therefore, it is not a case of violation of the principles of natural justice, but it is a case of failure to avail the opportunity given to the petitioner in the pre-revision notices.

6. Learned counsel for the petitioner submits that the entire assessment has been made based on the verification done in the Departmental website alleging that there is a mismatch. It is further submitted that if an opportunity is given to the petitioner to submit their objections and produce their books of accounts, they will be able to convince the respondent that there is no cause for revision of assessment for the relevant assessment years.

7. Therefore, this Court is inclined to grant one opportunity to the petitioner, however, subject to a condition.

8. Accordingly, the writ petitions are disposed of with a direction to the petitioner to pay 15% of the tax as quantified in each of the assessment years, within a period of four weeks from the date of receipt of a copy of this order. If the petitioner complies with the above condition, they will be entitled to treat the impugned proceedings as show cause notices and submit their objections within a period of two weeks thereafter. On receipt of the objections, the respondent shall afford an opportunity of personal hearing to the petitioner and after verifying the books of accounts, redo the assessment in accordance with law. In the event of non compliance of the above condition imposed by this Court within the time permitted, the benefit of this order will not enure to the petitioner and the writ petitions will be dismissed automatically without any further reference to this Court, leaving it open to the

petitioner to work out their remedies under the provisions of the TNVAT Act. No costs. Consequently, the above WMPs are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To
The Commercial Tax Officer, Madipakkam Assessment Circle,
Chennai-100.

+1 cc to M/s.C.Baktha siromoni Advocate sr 49166
+1 cc to the Special Government Pleader sr 48503

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