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.29756 & 29757 of 2016

& WMP.Nos.25735 & 25736 of 2016

Tvl.Wings International, rep.
by its Partner P.Palanisamy ...Petitioner

Vs

The Assistant Commissioner (CT),
Tirupur (Rural) Assessment
Circle, Tirupur. ...Respondent

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorari to call for the records on the files of the respondent respectively in Assessment Nos.33492389805/2013-14 and 33492389805/2014-15 dated 18.7.2016 and quash the same as being without jurisdiction and authority of law and contrary to the principles of natural justice.

For Petitioner : Mr.R.Senniappan
For Respondent : Mr.S.Kanmani Annamalai, AGP

COMMON ORDER

Mr.S.Kanmani Annamalai, learned Additional Government Pleader accepts notice for the respondent. Heard both. By consent, the writ petitions are taken up for final disposal.

2. In these writ petitions, the petitioner challenges the orders of assessment for the years 2013-14 and 2014-15 under the Tamil Nadu Value Added Tax Act, 2006.

3. The only ground, on which, the impugned orders have been questioned, is by contending that the petitioner's objections to the notices delivered at the office of the respondent have not been considered and that the respondent stated as if the petitioner had not filed any objections.

4. Prima facie, it is clear from the copy of the letter delivery book that a reply has been received in the office of the respondent on 11.6.2015. However, it is not clear as to the designation of the officer, who received the same. It cannot be disputed that though the Commercial Tax Department has been insisting upon filing of e-returns, curiously they are still maintaining the age old practice of receiving replies and objections by making endorsement in the letter delivery book. It is high time that the Principal Secretary/Commissioner of Commercial Taxes issues a circular to all the officers in the State that proper computer generated acknowledgement should be given to the dealer when the assessees make a request for adjournment or whenever they file objections.

5. In the instant case, the pre-revision notices were issued on 20.5.2015 and the petitioner is stated to have given their objections on 11.6.2015. It is not known as to why for almost one year, the files were kept pending. Therefore, this Court is of the view that the matter should be sent back to the respondent so as to enable the petitioner to file their objections and that the assessments should be redone in accordance with law.

6. Accordingly, the writ petitions are disposed of with a direction to the petitioner to treat the impugned orders as show cause notices. The petitioner is directed to file their objections within a period of twelve weeks from the date of receipt of a copy of this order. On receipt of the objections, the respondent shall afford an opportunity of personal hearing to the petitioner, verify the books of accounts and redo the assessments in accordance with law. As observed in the preceding paragraph, the Principal Secretary/ Commissioner of Commercial Taxes is directed to issue a circular to all the officers in the State that the practice of giving acknowledgement in the letter delivery book shall be immediately dispensed with and the officials shall be directed to give a computer generated acknowledgement for any letter or objections filed before the concerned officer. No costs. Consequently, the above WMPs are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To
1.The Assistant Commissioner (CT),
Tirupur (Rural) Assessment Circle, Tirupur.

2.The Principal Secretary
Commissioner of Commercial Taxes
Tiruppur

+1 cc to Mr.R.Senniappan Advocate sr 48433
+1 cc to the Special Government Pleader Taxes sr48505

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