IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.10.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.30788 to 30793 of 2016 and
connected WMPs

M/s Jeetmall Sukanraj Co.,
rep. by its Partner Usha B.Jain ...Petitioner

vs.

The Commercial Tax Officer
Kothawalchavadi Assessment Circle
Wawoo Mansion, Chennai 600 001.
...Respondent
in all the Petitioner

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified mandamus, to call for the records on the file of the respondent in TIN:33670180046/2007-08 2008-09,2009-10,2010-11,2011-12,2012-13 dated 29.7.2016 and quash the same as illegal, contrary to law and against the principles of natural justice and fair play and direct the respondent to furnish the bill-wise details of the sales not reported by the sellers and provide opportunity of cross examination.

For Petitioners : Mr.T.Pramodkumar Chopada
(in all W.Ps)

For Respondent : Mr.S.Kanmani Annamalai
(in all W.Ps) Addl.Govt. Pleader

C O M M O N O R D E R

Heard Mr.T.Pramodkumar Chopada, learned counsel appearing for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader appearing for the respondent in all Writ Petitions.

2.The petitioner is a dealer in spices and registered on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax, 2006 [TNVAT Act] and Central Sales Tax Act, 1956 [CST Act]. In these Writ Petitions, the petitioner challenged the orders of assessment dated 29.07.2016 for the assessment year 2007-08 to 2012-1, under the TNVAT Act.

3.A VAT Audit was conducted in the place of business of the petitioner by the Enforcement Wing Officials on 05.11.2014 and certain defects were pointed out. The defects which were pointed out is culled out by a cross verification of the transactions of Buyer and Seller as per Annexure-I, which were available in the official Website. The petitioner was granted an opportunity to file their objections.

4.The respondent would state that as the petitioner has not submitted their objections, he has completed the assessments and confirmed the proposals in the show cause notices.

5.The petitioner's contention is that they submitted their reply on 29.01.2016, enclosing Annexure-II. Though in the impugned orders, it is stated that no reply has been filed, it appears from the impugned orders, petitioner's reply along with annexures were considered and to a partial extent, the Assessing Officer has also given relief to the petitioner. This shows that the reply submitted by the petitioner dated 29.01.2016 along with annexures were available on the file of the respondent. However, the petitioner's grievance is that unless and until full details are furnished, they would not be in a position to submit effective objections.

6.The stand taken by the petitioner appears to be fully justified, since to submit an effective objections, particulars have to be furnished by the Department. Therefore, the petitioner has now sought for furnishing the Bill Nos. and other details in respect of the transactions which have been referred to in the impugned orders. This having not been furnished, this is a fit case where the assessment could be redone, after giving the necessary particulars.

7.Accordingly, the Writ Petitions are allowed, the impugned orders are set aside and the matter is remanded to the respondent for fresh consideration. The petitioner is directed to appear in person before the Assessing Officer, within a period of two weeks from the date of receipt of a copy of this order and collect all the particulars required by them, which shall be made available by the respondent and after all the particulars have been collected, the petitioner is granted fifteen days time to submit their objections and on receipt of the objections, the respondent shall afford an opportunity of personal hearing and redo the assessments in accordance with law. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rpa

To

The Commercial Tax Officer
Kothawalchavadi Assessment Circle
Wawoo Mansion, Chennai 600 001.

+1cc to Mr.Pramod Kumar, Advocate, S.R.No.57158
+1cc to the Government Pleader, S.R.No.57098

AD(CO)
RS(08/02/2017)

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