IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2016

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.32936 to 32940/2016 & WMP.Nos.28474 to 28483/2016

Tvl.Aravinth Agro Agency
rep.by R.Nallusamy, Krishnapuram
Post, Perambalur District. .. Petitioner in all WPs.

..Vs..

The Assistant Commissioner
[CT [FAC]] Ariyalur, Perambalur District. .. Respondent in all WPs.

Writ Petitions filed under Article 226 of the Constitution of India, praying to issue a Writ of certiorarified mandamus calling for the records in TIN No.33833602894/2014-2015 ; TIN No.33833602894/2013-2014 ; TIN No.33833602894/2012-2013 ; TIN No.33833602894/2011-2012 and TIN No.33833602894/2010-2011 dated 27.01.2016 on the file of the respondent and quash the same as illegal and against the principles of natural justice and direct the respondent to follow the rule of law.

For Petitioner in all writ petitions : Mr.A.Thiyagarajan, Senior Counsel assisted by Mr.S.Ramesh Kumar

For Respondent in all writ petitions : Mr.K.Venkatesh, GA [Taxes]

COMMON ORDER

Heard Mr.A.Thiyagarajan, learned Senior Counsel assisted by Mr.S.Ramesh Kumar, learned counsel for the petitioner and Mr.K.Venkatesh, learned Government Advocate [Taxes] accepting notice on behalf of the respondent and with the consent on either side, the writ petitions are taken up for final disposal.

2 The petitioner who is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu

Value Added Tax Act, 2006 [TNVAT Act], has challenged the orders of Assessment dated 27.01.2016 for the Assessment Years 2010-2011, 2011-2012, 2012-2013, 2013-2014 and 2014-2015. Though several grounds were canvassed by the learned Senior Counsel appearing for the petitioner, it is submitted that the primary ground on which the impugned orders have been challenged, is that no opportunity was granted to the petitioner to submit their objection. On receipt of the revision notices dated 05.01.2016 for all the Assessment Years, which itself was based on the report submitted by the Enforcement Wing Officials, the petitioner submitted a representation to the office of the respondent on 19.01.2016. In the said representation, the petitioner sought for time and requested the respondent to fix a date for personal hearing. This letter has been received by one Mr.Manimaran, who is A_2 Assistant in the office of the respondent. There is also an endorsement in the Letter Delivery Book to the said effect. However, the respondent, while completing the assessment stated that the petitioner has not filed any objection and accordingly, confirmed the proposal in the revision notices.

3 Time and again, this Court, has pointed out that the Sales Tax Department should immediately dispense with the practice of giving acknowledgments in the Letter Delivery Book as at times, it is not clear as to whether the officials of the Department have received the letters or not. However, in the instant case, this Court is not proposed to disbelieve the case of the petitioner because the signature contained in the representation is shown to be that of an official of the respondent Department. Therefore, this Court is inclined to accept the stand taken by the petitioner that they had sought for time and this representation was not even referred and conceded by the respondent while completing the assessments exparte. In fact, after the impugned orders were passed, the petitioner has given a representation on 26.02.2016 stating that for the past five years, the petitioner has not been carrying on any business and also requested for cancellation of the Registration Certificate as well as the TIN number. This representation was sent by Registered Post and received in the office of the respondent on 26.02.2016. However, there is response to the said communication. In the light of the above facts, the respondent shall re-do the assessment after affording an opportunity to the petitioner to submit their objection and also be heard in person.

4 Accordingly, the writ petitions are allowed and the impugned orders of assessment dated 27.01.2016 in TIN No.33833602894/2014-2015 ; TIN No.33833602894/2013-2014 ; TIN No.33833602894/2012-2013 ; TIN No.33833602894/2011-2012 and TIN

No.33833602894/2010-2011, are set aside and the petitioner is directed to submit the objection within a period of two weeks from the date of receipt of a copy of this order and on receipt of such objection from the petitioner, the respondent shall afford an opportunity of personal hearing to the petitioner and re-do the assessment for the Assessment Years 2010-2011 to 2014-2015, on merits and in accordance with law. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

AP

To
The Assistant Commissioner
[CT [FAC]] Ariyalur, Perambalur District.

1 cc to Mr.S.Rameshkumar, Advocate, sr.53899
1 cc to Special Government Pleader (Taxes), sr.53864

W.P.Nos.32936 to 32940/2016

rsy co
kra 03.10.2016