IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2016

CORAM:

THE HON 'BLE MR. JUSTICE T.S.SIVAGNANAM

Writ Petition Nos.33645 and 33646 of 2016

M/s M.G.Power System,
Rep.by its Managing Partner
Mr.J.Mubarak,
No.16-17, Sahab Building,
North Main Road,
Chidambaram 608 001. ..Petitioner in both Writ Petitions

/vs/

The Commercial Tax Officer,
Chidambaram-I Assessment Circle,
Chidambaram. ..Respondent in both Writ Petitions

Prayer in W.P.No.33645 of 2016:- Writ Petition filed under Article 226 of the Constitution of India, seeking for Writ of Certiorari, to call for the records of the respondent in TIN:33474442627/2013-14, dated 30/08/2016, quash the same.

Prayer in W.P.No.33646 of 2016:- Writ Petition filed under Article 226 of the Constitution of India, seeking for Writ of Certiorari, to call for the records of the respondent in TIN:33474442627/2014-15, dated 30/08/2016, quash the same.

For Petitioner in both WPs :Mr.V.Sundareswaran

For Respondent in both WPs :Mr.S.Kanmani Annamalai Additional Government Pleader

C O M M O N O R D E R

Heard Mr.V.Sundareswaran, learned counsel appearing for the petitioner and Mr.S.Kanamani Annamalai, who accepts notice for the respondent. By consent of the learned counsel for both sides, these writ petitions are taken-up for final disposal.

2. In these writ petitions, the petitioner challenges the orders of assessment under the provisions of Tamil Nadu Value Added Tax, Act, 2006 (the Act) for the assessment years 2013-2014 and 2014-2015.

3. Pursuant to an inspection conducted by the Enforcement Wing Officers, in the place of business of the petitioner on 25.05.2015 and a VAT audit, the respondent issued notices dated 19.07.2016 stating that certain purchase details, which were available in the departmental website, were not disclosed in the monthly return of the petitioner. The petitioner submitted their objections along with invoice copies and stated that there was no discrepancy. The respondent, while completing the assessment, has stated that the purchases do not agree with the purchase omission pointed out in the revision notices.

4. The petitioner's case is that such a finding is absolutely false and that the respondent did not verify the invoice details produced by the petitioner nor the respondent furnished the details culled out from the departmental website. If the petitioner's case is correct, then, obviously the impugned proceedings are to be set aside as it would not be a case, where there can be a revision of assessment. Nevertheless, this problem could have been avoided, if the respondent had afforded an opportunity of personal hearing of the petitioner. This having not been done, this Court is inclined to remit the matter back to the respondent for a fresh consideration.

5. Since this Court finds that the explanation offered by the petitioner on 05.08.2016 is not elaborate and does not contain full facts, the petitioner is directed to treat the impugned proceedings as show cause notices and submit their objections, within a period of two weeks from the date of receipt of a copy of this order. On receipt of such objections, the respondent shall afford an opportunity of personal hearing to the petitioner, disclose the details available in the departmental website, compare it with the invoices and books of account produced by the petitioner and thereafter, redo the assessments in accordance with law. Till then, no coercive action shall be initiated against the petitioner for recovery of tax and penalty.

6. With the above observations, these writ petitions are allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

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To

The Commercial Tax Officer,
Chidambaram-I Assessment Circle,
Chidambaram.

1 cc to Mr.V.Sundareswaran, Advocate, Sr. 54897
1 cc to Government Pleader (Taxes), Sr. 54707

W.P.Nos.33645 and
33646 of 2016

EV (CO)
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