IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.12.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.39456 & 39457 of 2016 &

W.M.P.Nos.33737 & 33738 of 2016

M/s.Sri Ram Power and Infrastructures,
Rep. by its Authorized Signatory Mr.G.R.Kannan,
No.23, Flat No.1, River View Apartments,
1st Crescent Park Street,
Gandhi Nagar, Adyar, Chennai-600 020. .. Petitioner in both Writ Petitions

Versus

1.The Commercial Tax Officer,
Adyar Assessment Circle,
Chennai-600 028.

2.The Commercial Tax Officer,
Group-II Enforcement (South),
PAPJM Buildings, Greams Road,
Chennai-600 006. .. Respondents in both Writ Petitions

Prayer in both Writ Petitions: These Writ Petitions are filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari to call for the records of the first respondent in TIN/33640964550/2014-15 & TNGST/CST/TIN/33640964550/2013-14 and 2014-15, dated 28.03.2016, 2.5.16 respectively quash the same.

For Petitioner in both Writ Petitions : Mr.V.Sundareswaran

For Respondents in both Writ Petitions : Mr.K.Venkatesh
Government Advocate

C O M M O N   O R D E R

Heard Mr.V.Sundareswaran, learned counsel appearing for the petitioner in both Writ Petitions and Mr.K.Venkatesh, learned Government Advocate appearing for the respondents in both Writ Petitions.

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 (hereinafter referred to as the 'TNVAT Act'), has challenged the orders of assessment passed by the first respondent for the years 2013-14 and 2014-15, dated 28.03.2016.

3. In both Writ Petitions, the only issue which was taken up for consideration by the assessing officer is with regard to the mis-match of the transactions reflected in the official website of the Department. Based on the same, a notice was issued to the petitioner and the petitioner submitted their objections dated 23.02.2015. Along with the objections, the petitioner has enclosed the bank returns of the dealers with whom they had transactions. The first respondent, while completing the assessment, accepts that on comparing the manual return, there is no mismatch. However, an observation made that electronic reporting is not matching with the information reported by the dealer and it is stated that this issue is very vital. If that be the case, then, the first respondent should have conducted an enquiry and should have gathered information from the assessing officers of the selling dealers and after affording reasonable opportunity to the petitioner should complete the assessment. The first respondent having accepted that there is no mismatch and the comparing of the manual return, now seeks to change the entire case from where proposed in the notice dated 09.02.2015. Therefore, the assessment proceedings have to be re-done.

4. Accordingly, the Writ Petitions are allowed and the impugned orders are set-aside and the matters are remanded to the respondent for fresh consideration, who shall conduct an enquiry, ascertain information from the assessing officers of the selling dealers and after affording an opportunity of personal hearing to the petitioner, redo the assessment in accordance with law. In the light of the above order, the consequential demand notice dated 02.05.2016 also requires to be set-aside and accordingly set-aside. There is no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

r n s

To

1.The Commercial Tax Officer,
Adyar Assessment Circle,
Chennai-600 028.

2.The Commercial Tax Officer,
Group-II Enforcement (South),
PAPJM Buildings, Greams Road,
Chennai-600 006.

1 cc to Spl. G.P (TS), Sr. 71239
2 ccs to Mr.V. Sundareswaran, Advocate, Sr. 71024

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RV (CO)
kk 29/12