In the High Court of Judicature at Madras

Dated : 29.11.2016

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.41718 to 41723 of 2016
and WMP.Nos.35701 to 35706 of 2016

Tvl.Pollutech Ltd., rep.by its
Deputy General Manager
Finance O & M P.V.Mohan,
presently known as Murugappa
Organo Water Solutions Pvt.Ltd. ...Petitioner in all WPs

Vs

The Assistant Commissioner (CT),
Tiruvallur Assessment Circle,
Tiruvallur-602001. ...Respondent in all WPs

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 TIN Nos.33621721064/2010-11, 33621721064/ 2011-12, 33621721064/2012-13, 33621721064/2013-14, 33621721064/ 2014-15 and 33621721064/2015-16 dated 28.10.2016 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.K.Venkatesh, GA

COMMON ORDER

Mr.K.Venkatesh, learned Government Advocate accepts notice for the respondent. Heard both. By consent, the writ petitions are taken up for joint disposal.

2. The petitioner, which is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006, has filed these writ petitions challenging the orders of assessment for the years 2010-11 to 2015-16. Since the grounds of challenge are common in these writ petitions, they are disposed of by this common order.

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3. The common issue in all these cases is as to the reversal of input tax credit on the ground that there is a mismatch of the transactions done by the petitioner on verification during the course of audit. Pursuant to the audit conducted in the place of business of the petitioner, the respondent issued show cause notices dated 2.9.2016 proposing to reverse the input tax credit availed by the petitioner for the relevant assessment years and also proposed to levy penalty under Section 27(3) of the said Act.

4. The petitioner sent a common reply dated 3.10.2016 for all the notices stating that during the VAT audit, they have shown all the vendor bills and their VAT return copies as proof of genuineness of the transactions. The petitioner further stated that they purchased materials from their regular vendors, who are all registered dealers and who are all filing monthly returns and that they are in possession of the vendor bills, based on which, they claimed input tax credit in their monthly returns. The petitioner also offered to show all the copies of the bills to the Assessing Officer, if required.

5. This reply dated 3.10.2016 was sent to the office of the respondent and it has been received on 4.10.2016 by Ms.G.Thenmozhi, A4 Assistant, who has affixed her signature in the letter delivery book, a copy of which has been enclosed in the typed set of papers. However, the respondent completed the assessments except for the assessment year 2012-13 stating that the petitioner did not file their objections. However, in the assessment order passed for the year 2012-13, the respondent referred to the petitioner's reply dated 4.10.2016. But, the same has been rejected in a single line by recording that relevant documents were not filed along with the reply.

6. If the respondent was in receipt of the reply dated 3.10.2016, it should have been referred to in all the assessment orders and the petitioner's request to the Assessing Officer to produce copies of the bills should not have been brushed aside. Had the documents been called for by the Assessing Officer, the present litigation would have been avoided. Thus, it is eventually clear that the impugned assessment orders have been passed in utter disregard to the principles of natural justice and this is sufficient to hold that they are bad in law.

7. Accordingly, the writ petitions are allowed, the impugned orders are set aside and the matters are remitted back to the respondent for fresh consideration. The respondent shall afford an opportunity of personal hearing to the petitioner, consider the petitioner's reply dated 3.10.2016, call upon the petitioner

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to produce necessary documents and redo the assessments in accordance with law. No costs. Consequently, the above WMPs are closed.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

To

The Assistant Commissioner (CT), Tiruvallur Assessment Circle, Tiruvallur-602001.

+1 cc to Spl.Govt. Pleader,sr.70061

+1 cc to Mr.R.Senniappan,advocate,sr.69961.

sv(co)
krd 26/12

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