IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 02.12.2016

CORAM

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

WP.Nos.42368 to42370/2016 & WMP.Nos.36268 to 36370/2016

Tvl.Global Infonet Distributors Pvt.Ltd
rep.by its Accountant G.P.Venkatesh
No.115/A, Pillaiyar Koil 2nd Street
Jaffarkhanpet,
Chennai 600 083. ..Petitioner in all the writ petitions

Vs

The Assistant Commissioner [CT]
Amaindakarai Assessment Circle
Chennai. ..Respondent in all the writ petitions

Writ petitions filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records on the file of the respondent in TIN 33490561355/2011-12 ; TIN 33490561355/2013-14 ; and TIN 33490561355/2014-15 dated 31.08.2016 ; 28.03.2016 and 29.03.2016 respectively and quash the same as being without jurisdiction and authority of law and contrary to the principles of natural justice.

For Petitioner in all the WPs : Mr.R.Senniyappan
For Respondent in all the WPs : Mr.K.Venkatesh, GA

COMMON ORDER

Heard Mr.R.Senniyappan, learned counsel appearing for the petitioner and Mr.K.Venkatesh, learned Government Advocate 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 is a registered dealer under the provisions of the Tamil Nadu Value Added Tax Act, 2006 [TNVAT Act], dealing in multi purpose printers, printer cartridges, Xerox machines, LCD monitors etc. Pursuant to the inspection

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conducted in the place of business of the petitioner, the respondent issued a Show Cause Notice dated 05.10.2015 proposing to revise the total taxable turnover of the petitioner for the relevant Assessment years, viz., 2011-12, 2013-14 and 2014-15 respectively, under the four heads, viz., [1] Purchase Suppression ; [2] Wrong claim of Input Tax Credit ; [3] Tax liability of Sales suppression on local sales ; and [4] Reversal of ITC on interstate sales without "C" Forms.

3 On receipt of the notice, the petitioner submitted a letter dated 05.11.2015 to the respondent seeking furnishing of the details regarding the Suppliers, TIN Numbers and value etc., and stated that they have purchased from the registered dealers and payments were made by cheque and therefore, requested the details to be furnished to the petitioner so that they will revert back to the Assessing Officer with documentary proof. The copy of the letter dated 05.11.2015 has not been filed in the typed set of papers. But, it is the submission of the petitioner that they had sought for details. The respondent, while completing the assessments, by passing the impugned orders, has referred to the petitioner's letter dated 05.11.2015 and however, the petitioner had completed the assessment keeping one of the issues alive, viz., wrong claim of ITC and confirmed the proposal in respect of the other three issues, stating that the petitioner has not filed any objection. As pointed out, the petitioner has not filed the copy of the objections / letter dated 05.11.2015 in the typed set of papers. Therefore, this Court is not able to verify as to what is the nature of objection given apart from requesting for details. In any event, if the respondent propose to defer the assessment pertaining to the wrong claim of ITC, then the petitioner should have been intimated with such issue is being deferred and the other issues are going to be considered. However, such procedure has not been adopted by the respondent. The assessment requires to be re-done. However, considering the facts and circumstances of the case and taking note of the fact that the orders of assessment are passed in March 2016 / August 2016, this Court is inclined to impose certain conditions, so as to enable the petitioner to once again to go before the Assessing Officer.

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4 Accordingly, the petitioner is directed to pay 15% of the disputed tax for each of the Assessment Years within a period of three weeks from the date of receipt of a copy of this order and if the said amount is paid, the respondent is directed to furnish full details regarding the Wrong Claim of ITC by furnishing TIN numbers, suppliers' name, value etc., and thereafter, give fifteen days time to the petitioner to file their objections. In the said objections, apart from the issue of Wrong Claim of ITC, the petitioner is entitled to submit

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objection on the other three issues also and on receipt of such objections, the respondent is directed to afford an opportunity of personal hearing to the petitioner and re-do the assessment in accordance with law.

5 The writ petition stands disposed of with the above direction. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

AP

To

The Assistant Commissioner [CT]
Amaindakarai Assessment Circle
Chennai.

+ 1 cc to Mr.R. Senniappan, Advocate Sr.71137
+ 1 cc to Special Government Pleader Sr.71513

WP.Nos.42368 to 42370/2016

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