IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2016

CORAM

THE HON'BLE Mr. JUSTICE M.DURAISWAMY

W.P.Nos.9233 & 9234 of 2016
and
W.M.P.Nos.8204 & 8205 of 2016

M/s.Satyam Agency,
rep by its Proprietor R.Vasudeva Gupta
No.111, Govindappa Naicken Street,
Chennai - 600 001. ... Petitioner in both W.Ps

Vs.

The Assistant Commissioner (CT),
Kothawalchavadi Assessment Circle,
Chennai - 600 001. ... Respondent in both W.Ps

Petitions filed under Article 226 of The Constitution of India praying to issue a writ of certiorari to call for the impugned proceedings of the respondent in TIN/33840183008/2012-13 and TIN/33840183008/2013-2014 dated 27.11.2015 and quash the same as passed in violation of the principles of natural justice and also contrary to the provisions of the TNVAT Act.

For Petitioner : Mr.P.Rajkumar
(in both W.Ps)

For Respondent : Mr.S.Kanmani Annamalai,
(in both W.Ps) Additional Government Pleader(Tax)

C O M M O N O R D E R

The petitioner has filed the above Writ Petitions to issue writs of certiorari to call for the impugned proceedings of the respondent in TIN/33840183008 for the assessment years 2012-13 and 2013-14 dated 27.11.2015 and to quash the same.

2.The main contention raised by the petitioner is that inspite of the fact that the petitioner in their objections dated 19.10.2015 very clearly brought to the attention of the respondent the instruction issued by the Principal Secretary and the Commissioner of Commercial Taxes through the Circular No.1/2009 dated 30.11.2009, letter dated 04.11.2013 and

Circular No.29/2015 dated 11.08.2015 stating that there cannot be levy of tax on the discounts received from the supplier. However, the respondent, without considering the Circular, had proceeded to levy tax on the discounts received by the petitioner from its supplier. Further, the learned counsel submitted that the Division Bench of this Court by judgment dated 05.08.2015 in W.A.Nos.1038 to 1040 of 2015 had quashed the assessment orders levying tax on the discounts received from the seller and directed the Assessing Officer to pass fresh assessment orders taking into consideration the Circular of the Commissioner dated 04.11.2013.

3.Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Tax) taking notice for the respondent fairly submitted that the issue involved in these Writ Petitions are covered by the decision of this Court made in W.A.Nos.1038 to 1040 of 2015.

4.Following the judgment of the Division Bench of this Court, the impugned orders are liable to be set aside. Accordingly, the impugned orders are set aside and the matter is remitted back to the respondent for fresh consideration. The petitioner is permitted to file necessary objections before the respondent and on such filing of the objections, the respondent is directed to consider the same and pass orders on merits and in accordance with law in the light of the Circular referred to above and also taking into account the Section 19(20) of the TNVAT Act after giving due opportunity of personal hearing to the petitioner.

5.With these observations, the Writ Petitions are disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

va

To

The Assistant Commissioner (CT),
Kothawalchavadi Assessment Circle,
Chennai - 600 001.

+1cc to Mr.P.Rajkumar, Advocate, S.R.No.15643
+1cc to the Special Government Pleader(T), S.R.No.15986

W.P.Nos.9233 & 9234 of 2016
and W.M.P.Nos.8204 & 8205 of 2016

EV(CO)
CA(23/03/2016)