IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2017

CORAM:

THE HONOURABLE MR. JUSTICE T.S. SIVAGNANAM

W.P.Nos.10004 to 10007 of 2017
and
WMP.Nos.11011 to 11014 of 2017

M/s.R.A.Leather Fashion
rep. by its Authorised Signatory .. Petitioner in all the WPs

Vs.

Assistant Commissioner (CT)
Periamet Assessment Circle
Greams Road
Chennai – 600 006. .. Respondent in all the WPs

Petitions filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, to call for the records of the respondent and to quash the assessment proceedings in TIN.No.33490423033/2011-12, TIN.No.33490423033/2012-13, TIN.No. 33490423033/2013-14 and TIN.No.33490423033/2014-15 respectively dated 30.11.2016 as illegal and direct the respondent to furnish the details of information obtained from the departmental Website for the alleged mismatch of purchases of the petitioner based on the recent decision of the batch cases of the Madras High Court in W.P.No.105/2016 and other relating to M/s.JKM Graphics Solutions Pvt. Limited and others v. Commercial Tax Officer, Vepery Assessment Circle and others dated 01.03.2017 after providing an opportunity of personal hearing to the petitioner and lift the illegal bank attachment without serving demand notices.

For Petitioner : Mr.C.Baktha Siromani

For Respondent : Mr.Kanmani Annamalai,
Additional Government Pleader

COMMON ORDER

Heard Mr.C.Baktha Siromoni, learned counsel for the petitioner and Mr.Kanmani Annamalai, learned Additional Government Pleader for the respondent department.

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 ("TNVAT Act" in short), is before this Court challenging the assessment orders for the years 2011-12, 2012-13, 2013-14 and 2014-15.

3.The main ground on which the impugned orders are challenged, is that no pre-assessment notice was issued. Further, it is submitted that the assessment orders were sent by the respondent through registered post on 22.02.2017, which were served on the petitioner on 06.03.2017 and before expiry of 30 days time from the date of receipt of the same, the bank account of the petitioner has been attached. On this legal issue, the learned counsel for the petitioner submitted that in the light of the decision of this Court dated 01.03.2017 in W.P.No.105 of 2016 etc. batch (M/s.JKM Graphics Solutions Private Limited v. The Commercial Tax Officer, Chennai), no such demand can be raised on the petitioner.

4.At the time of entertaining the writ petition, an interim order was granted on 24.04.2017, recording the submission of the learned counsel for the petitioner that no pre-assessment notice was issued and even before expiry of 30 days time, the bank account has been attached and the matter has been adjourned by four weeks thereafter. However, till date, the Assessing Officer has not responded to the communication given by the learned Additional Government Pleader, nor any file was produced before this Court. Hence, this Court draws adverse inference and comes to the conclusion that the impugned orders are in violation of the principles of natural justice.

5.Accordingly, the writ petitions are allowed and the impugned orders are set aside and consequently, the bank account of the petitioner shall be released forthwith. However, it is open to the respondent to proceed with the matter afresh in the manner known to law. No costs. Consequently, connected Miscellaneous Petitions are closed.



Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

The Assistant Commissioner (CT)
Periamet Assessment Circle
Greams Road
Chennai - 600 006.

+1cc to M/s.C.Baktha Siromani, Advocate in sr.no.48565
+1cc to Special Government Pleader in sr.no.48315

W.P.Nos.10004 to 10007 of 2017

CNR(CO)
NR 19/07/2017