In the High Court of Judicature at Madras

Dated: 04.01.2017

Coram

The Honourable Mr.JUSTICE RAJIV SHAKDHER

Writ Petition Nos.67 to 74 of 2017
& WMP Nos.84 and 91 of 2017

Tvl.Saudagar Enterprises
rep. by the Manager
PO Box No.7, Tirupur Main Road,
Avinashi

.... Petitioner in the above W.Ps

Vs.

The Assistant Commissioner (CT),
Avinashi Assessment Circle.
Avinashi-641 654

.... Respondent in the above W.Ps

PETITIONs under Article 226 of The Constitution of India praying for the issuance of Writ of Certiorari calling for the records of the respondent dated 16/11/2016 in TIN:3387-2081330/2007-08,2008-09, 2009-10, 2010-11, 2011-12, 2012-13,2013-14 and 2014-15 and quash the same.

For Petitioner : Mr.Adithya Reddy

For Respondents: Mr.K.Venkatesh-Government Advocate

C O M M O N O R D E R

1. Issue notice. Mr.K.Venkatesh, who appears on advance notice, waives service of notice.

1.1. With the consent of counsels for parties, the Writ Petitions are taken up for hearing and final disposal.

2. The captioned Writ Petitions impugn eight (8) separate orders of even date, i.e., 16.11.2016. By virtue of these orders, the petitioner has been directed to pay tax of varying sums.

2.1. For the sake of convenience, the details with respect to the tax imposed on the petitioner are set forth hereafter:

S.No.	Year	Turnover difference Rs.	Tax due Rs.
1	2007-08	96,55,934/-	3,86,241/-
2	2008-09	2,90,70,192/-	11,89,152/-
3	2009-10	3,73,56,027/-	15,09,160/-
4	2010-11	1,02,95,535/-	4,06,673/-
5	2011-12	51,66,136/-	2,46,830/-
6	2012-13	85,28,299/-	4,40,004/-
7	2013-14	27,24,334/-	1,03,819/-
8	2014-15	6,46,099/-	32,306/-

3. The record further shows that the impugned orders have one common strand qua imposition of tax, which is, mismatch in the details pertaining to sales transactions, as available in the Department's website and the information available on record via monthly returns filed by the petitioner.

4. At the time of issuing notice vis-a-vis proposal to levy tax, the petitioner had filed a common reply dated 10.06.2016, whereby, interalia, it had sought the details of suppliers, if any, available with the Department, so that, a reconciliation could be done at its end.

5. A perusal of the reply dated 10.06.2016 along with the impugned orders passed qua Assessment Years (A.Ys) 2011-12 and 2014-15 would show that in these two AYs, additional reasoning was furnished by the Department for imposition of tax, which was that, registration certificate of the sellers stood cancelled.

5.1. In so far as this aspect of the matter is concerned, counsel for the petitioner correctly submits that this could not have formed a reason for imposition of tax, as the said issue is covered against the Department by the judgment of the Division Bench of this Court dated 01.09.2016, passed in a batch of Writ Appeals, the lead Writ Appeal being:W.A.No.946 of 2016, titled: The Assistant Commissioner (CT) V. M/s.Bhairav Trading Company.

6. Furthermore, I have put to Mr.K.Venkatesh, as to whether, in a case like this, where no details and information have been supplied to the petitioner, i.e., the assessee, with regard to what is termed as mismatch in the information available on the website of the Department and that which is available in the record, the best course of action would be to redo the assessment. Mr.Venkatesh, in response submits, he cannot, but state, that the best forward would be to redo the assessment.

7. Accordingly, the impugned orders are set aside with

liberty to the respondent to redo the assessments. The respondent will, accordingly, issue a notice to the petitioner to appear before him for this purpose. Needless to say, the respondent will pass fresh orders of assessments in respect of concerned AYs, only after affording adequate opportunity to the petitioner to represent its case.

8. Consequently, the captioned Writ Petitions are disposed of.

9. Resultantly, the connected Miscellaneous Petitions are closed. However, there shall be no order as to costs.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

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To

The Assistant Commissioner (CT), Avinashi Assessment Circle.

+1cc to the Special Government Pleader (Taxes), High Court, Madras-104 sr.1165

+1cc to M/s.R.Asokan, Advocate sr.688

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ppa(co)
ss(30/01/2017)