IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.12.2017

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.Nos.31858 and 31859 of 2017
and W.M.P.Nos.35013 and 35014 of 2017

Tvl.Magnum Casuals International Pvt Ltd.,
Rep. by its Managing Director Mr.P.Nishant Banthia,
4/29 A, P.H.Road,
Kattukuppam, Chennai - 56. .. Petitioner in both W.Ps.

..Vs..

The Assistant Commissioner (CT),
Vanagaram Assessment Circle,
No.176 B, MTH Road,
Villivakkam, Chennai - 49. .. Respondent in both W.Ps.

Prayer in W.P.No.31858 of 2017: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records on the file of the respondent proceedings in TIN.33791582503/2013-2014 dated 09.08.2017 and quash the same being violated the principles of natural justice, illegal, invalid and against the law and also law laid down by this Court.

Prayer in W.P.No.31859 of 2017: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records on the file of the respondent proceedings in TIN.33791582503/2015-2016 dated 21.08.2017 and quash the same being violated the principles of natural justice, illegal, invalid and against the law and also law laid down by this Court.

For Petitioner in both W.Ps.: Mr.D.Vijayakumar

For Respondent in both W.Ps.: Mr.K.Venkatesh
Government Advocate

COMMON ORDER

Heard Mr.D.Vijayakumar, learned counsel appearing for the petitioner and Mr.K.Venkatesh, learned Government Advocate appearing for the respondent.

2.In these writ petitions, the petitioner who is the registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (TNVAT Act) challenged the order of assessment dated 09.08.2017 only with regard to reversal of input tax credit which has been ordered by the Assessing Officer on the ground that the petitioner has not proved by documents the purchases which have been effected by them which information was culled out from the intranet website of the Department. It may not be necessary for this Court to go into the merits of the matter since the impugned order has been challenged on the ground of violation of principles of natural justice. The revision notice dated 12.07.2017 was received by the petitioner and the petitioner would state that on 12.08.2017 submitted reply along with the documents. However, the same was acknowledged in the Letter Delivery Book only on 21.08.2017. In the interregnum, assessment order was passed, but the impugned assessment order was received by the petitioner only on 05.09.2017. The petitioner produced a copy of the letter delivery book which shows that the petitioner has given the reply to the revision notice along with documents which has been received on 21.08.2017. However, there is a note made by a staff of the Department with regard to certain instructions given by the Assessing Officer Mr.V.Kathiravan.

3.Be that as it may, the petitioner has received the impugned assessment order only on 05.09.2017. Considering the fact that the revision of assessment is based on the details culled out from the intranet website of the Department, this Court is of the view that one more opportunity may be granted to the petitioner to go before the Assessing Officer. The Assessing Officer is required to follow the guidelines prescribed by this Court in the case of Infiniti Wholesale Limited vs. Assistant Commissioner (CT), Koyambedu Assessment Circle, Koyambedu, Chennai reported in (2015) 82 VST 457 confirmed by the Division Bench and the order passed in JKM Graphics Solutions vs. Commercial Tax Officer reported in (2017) 99 VST 343 (Mad).

4.Thus, for the above reasons, the writ petition is disposed of by directing the petitioner to treat the impugned assessment order as show cause notice and submit the objections within a period of fifteen days from the date of receipt of a copy of this order along with the documents. On receipt of the same, the respondent shall afford an opportunity of personal hearing and redo the assessment on the particular head in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.

s/d-
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

cse

To

The Assistant Commissioner (CT),
Vanagaram Assessment Circle,
No.176 B, MTH Road,
Villivakkam, Chennai - 49.

+1 CC to Mr.D. Vijayakumar, Advocate sr 88331.
+1 CC to The Govt. Pleader sr 88619.
+1 CC to Mr.D. Vijayakumar, Advocate sr 88331.(22/01/2018)

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SP(09/01/2018)