IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.09.2017

CORAM

THE HONOURABLE MR. JUSTICE T.S. SIVAGNANAM

WP.Nos.22134 and 22135 of 2017
&
W.M.P.Nos.23172 and 23173 of 2017

New SRN Agencies
Rep. by its Proprietor,
No.76-A, Medavakkam Main Road,
Madipakkam,
Chennai 600 091. ...Petitioner (Both petitions)

Vs.

Assistant Commissioner (CT)
Madipakkam Assessment Circle,
Chennai 600 100. ...Respondent (Both petitions)

Prayer: Petitions under Article 226 of the Constitution of India praying for issuance of a Writ of certiorarified mandamus to call for the records of the respondent in his proceedings in TIN No.33920988258/2013-14 and 2014-2015 dated 20.07.2017 and quash the order passed therein and to direct the respondent to pass revised orders for the year 2013-14 and 2014-15 by providing copies of the mismatch details taken from the WEB SITE of the sales tax department intra-net as per the decision of the batch cases of the Madras High Court in W.P.105/2016 and other relating to M/s.JKM Graphics Solutions Pvt Limited & Others Vs. Commercial Tax Officer, Vepery Assessment Circle and Others dated 01.03.2017 and also by providing an opportunity of personal hearing to the petitioner.

For Petitioner :: Mr.C.Baktha Siromoni

For Respondents:: Mr.S.Kanmani Annamalai
Additional Government Pleader

C O M M O N O R D E R

Heard Mr.C.Baktha Sironmoni, learned Counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader for the respondent.

2. With the consent of the learned counsel on either side, the writ petitions themselves are taken up for disposal.

3. The petitioner who is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (TNVAT Act in short), is before this Court, challenging the orders of assessment under the said Act for the assessment years 2013-14 and 2014-15.

4. A perusal of the impugned assessment orders shows that the petitioner has not cooperated with the assessment proceedings and has not produced the reconciliation statement to enable the Assessing Officer to complete the assessment.

5. Mr.C.Baktha Sironmoni, learned counsel for the petitioner would submit that he had appeared in person before the respondent along with his client and also produced the original books of accounts and details. But, the respondent has not examined the same and has completed the assessment by passing the impugned orders, which are wholly unsustainable. It is the submission of the learned counsel for the petitioner that the respondent had issued a notice based on mismatch details taken from the departmental website, without conducting any verification of the accounts of the petitioner. In this regard, the learned Counsel for the petitioner has relied upon a decision of this Court rendered in the case of M/s.JKM Graphics Solutions Pvt Limited & Others Vs. Commercial Tax Officer, Vepery Assessment Circle and Others (WP.No.105/2006 and etc., batch) dated 01.03.2017. Therefore, it is submitted that the impugned assessment orders may be set aside and the matters may be remanded to the respondent for fresh consideration.

6. The learned Additional Government Pleader, on the other hand, would submit that if the petitioner had cooperated with the assessment proceedings, then the respondent would have been in a position to peruse the documents produced and could have arrived at the correct taxable turn over. However, the petitioner did not cooperate with the assessment proceedings.

7. After hearing the learned counsel for the parties and perusing the materials placed on record, it is seen that the petitioner has not produced item code-wise reconciliation statement. The case of the petitioner is that they are the dealers in various consumer items and the manufacturers placed those items for display and sale in their business premises and they are not insisting upon payment being made for those items which are kept in display. In my considered view, if the materials are placed in the petitioner's business premises, then obviously, invoices ought to have been raised in the name of the petitioner or else, it should have been shown as a product for demonstration purpose only and would be taken back by the

manufacturer/supplier. However, these facts have to be established by the petitioner before the Assessing Officer, for which purpose, they are bound to produce the entire details of stock, more particularly, the closing stock details along with item code-wise reconciliation statement. Considering the factual matrix involved in this matter, this Court is of the view that one more opportunity could be granted to the petitioner to go before the assessing officer for producing all the necessary documents.

8. Accordingly, these writ petitions are allowed and the impugned orders are set aside and the matter is remanded to the respondent for fresh consideration. The respondent shall fix the date for personal hearing and on the said date, the petitioner shall appear before the respondent and produce all the documents sought for and the respondent shall personally verify those documents and details and re-do the assessment in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

sai\nv

To

The Assistant Commissioner (CT)
Madipakkam Assessment Circle,
Chennia 600 100.

+1 CC to Mr. C. Bakthasironmani, Advocate sr 63894.

WP.Nos.22134 and 22135 of 2017

KK(CO)
sp(27/09/2017)