In the High Court of Judicature at Madras

Dated : 19.9.2017

Coram :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition Nos.24951 to 24953 of 2017

and W.M.P.Nos.26324 to 26329 of 2017

Tvl.Suresh Jewellery, Rep. by
its Proprietor, Chennai-79 Petitioner in all the petitions

Vs

The Assistant Commissioner (CT),
Mooremarket Assessment Circle,
Wavoo Mansion, Rajaji Salai,
Chennai. Respondent in all the petitions

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorarified Mandamus to call for the records of the respondent in impugned orders in TIN: 33240381121/2013-14, TIN: 33240381121/2014-15 and TIN: 33240381121/2015-16 dated 29.6.2017, quash the same as contrary to the provisions of the Tamil Nadu Value Added Tax Act, 2006 and also against the principle of natural justice and further direct the respondent to provide an opportunity to file reply, documents and also an opportunity of being heard and pass order in accordance with law.

For Petitioner : Ms.C.Rekha Kumari

For Respondent : Mrs.Narmadha Sampath, SGP

C O M M O N O R D E R

Heard Ms.C.Rekha Kumari, learned counsel for the petitioner and Mrs.Narmadha Sampath, learned Special Government Pleader accepting notice for the respondent. By consent, the writ petitions are taken up for joint disposal.

2. The petitioner is before this Court challenging the assessment orders passed by the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 for three years namely 2013-14 to 2015-16.

3. The impugned orders have been challenged on the ground that they are in violation of the principles of natural justice.

4. On receipt of the respective show cause notices dated 24.10.2016, the petitioner submitted individual reply dated 31.12.2016 for all the three assessment years wherein the petitioner specifically requested for furnishing copies of invoice numbers, dates, value of invoices, entire mismatch value, etc. The petitioner relied upon the decision of this Court in the case of JKM Graphics Solutions Private Limited Vs. CTO, Vepery Assessment Circle [reported in (2017) 99 VST 343] and requested that the information might be furnished in a compact disc or sent as e-mail. Apart from that, the petitioner has given certain factual explanation and while concluding the petitioner stated that if the respondent decided to proceed further, the petitioner might be furnished with details.

5. Though the respondent, in the impugned orders, referred to the petitioner's reply and their request for furnishing details, she failed to furnish the details, but observed in the impugned orders that all the details have been furnished in a tabulated form. Thus, it is clear that there has been a gross violation of the principles of natural justice, as the petitioner has not been furnished with full details.

6. The learned counsel for the petitioner would submit that as of now, the petitioner is not aware of the entire details, based on which, there is an allegation of mismatch and prays that an opportunity may be granted to the petitioner.

7. Heard the learned Special Government Pleader on the above submissions.

8. Considering the fact that the details have not been furnished to the petitioner and that there has been a gross violation of the principles of natural justice, this Court is inclined to remit the matters to the respondent for a fresh consideration.

9. Accordingly, the writ petitions are disposed of with a direction to the petitioner to treat the impugned assessment orders as show cause notices and submit their objections within a period of 15 days from the date of receipt of a copy of this order. On receipt of the objections, the respondent shall afford an opportunity of personal hearing to the petitioner and redo the assessments in accordance with law. In the light of the above directions, no coercive action can be taken against the

petitioner for recovery of penalty as quantified in the impugned orders and it shall abide by fresh orders to be passed by the respondent. No costs. Consequently, the above WMPs are closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To
The Assistant Commissioner (CT),
Mooremarket Assessment Circle,
Wavoo Mansion, Rajaji Salai, Chennai.

+3 C.C. To M/S.C.REKHA KUMARI, Advocate SR.NO.68479.

WP.Nos.24951 to 24953 of 2017&
WMP.Nos.26324 to 26329 of 2017

RJ (CO)
ADD 12.10.2017