In the High Court of Judicature at Madras

Dated : 21.9.2017

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.25359 and 25360 of 2017

& WMP.Nos.26799 to 26802 of 2017

M/s.S.M.Packaging, ...Petitioner in both WPs
Rep. by its Proprietor

Vs

The Commercial Tax Officer,
Vallalar Assessment Circle,
No.116, Angappa Naicken
Street, Chennai - 01. ...Respondent in both WPs

PETITIONS under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus,

i) to call for the records of the respondent in TIN: 33621141489/2013-14, dated 10.07.2017 to quash the same as illegal, arbitrary and against the principle of natural justice and further direct the respondent to consider the documents and complete the assessment based on the law laid down by this Hon'ble Court in JKM Graphics Solution Pvt. Ltd., (99 VST 343.) (W.P.No.25359 of 2017) and

ii) to call for the records of the respondent in TIN: 33621141489/2014-15, dated 10.07.2017 to quash the same as illegal, arbitrary and against the principle of natural justice and further direct the respondent to consider the documents and complete the assessment based on the law laid down by this Hon'ble Court in JKM Graphics Solution Pvt. Ltd., (99 VST 343.) (W.P.No.25360 of 2017)

For Petitioner : Ms.C.Rekha Kumari

For Respondent : Mr.K.Venkatesh, GA

C O M M O N O R D E R

Heard Ms.C.Rekha Kumari, learned counsel for the petitioner and Mr.K.Venkatesh, learned Government Advocate 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 orders of assessment under the provisions of the Tamil Nadu

Value Added Tax Act, 2006 passed by the respondent dated 10.07.2017 for the years 2013- 2014 and 2014 - 2015.

3. Primarily, the impugned orders were challenged on two grounds. Firstly, the notices issued proposing to revise the turnover and collect tax dated 27.02.2015 are bereft of particulars. Secondly, it is contended that the Predecessor Officer heard the petitioner in person on 25.09.2015 and after more than two years, the impugned orders have been passed by the Successor Officer without hearing the petitioner.

4. So far as the show cause notices dated 27.02.2015 are concerned, on a bare perusal of the notices, it is seen that they are devoid of any particulars. The Assessing Officer is required to give particulars especially when the allegation against the dealer is that they have effected purchases from registration cancelled dealers/non existing dealers and bill traders.

5. Despite of this fact, the petitioner submitted their objections dated 25.09.2015 and 03.10.2015. The objections dated 03.10.2015 appear to be elaborate objections. The Predecessor Assessing Officer heard the petitioner's authorized representative on 25.09.2015. It is not known as to why he did not pass any order and left the matter to lie over. While, the conduct of the present Assessing Officer namely the respondent is appreciable in taking up old cases for disposal, he should have issued one more notice of personal hearing to the petitioner, as the settled principle is that the person who hears, must decide. This having not been done, it is sufficient to hold that there has been violation of the principles of natural justice.

6. As rightly pointed out by the learned Government Advocate, the respondent had given elaborate reasons in the impugned orders. Those were not forthcoming in the notices dated 27.02.2015. Therefore, this Court is inclined to give one more opportunity to the petitioner to go before the Assessing Officer.

7. For the above reasons, the writ petitions are disposed of with a direction to the petitioner to treat the impugned 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 is directed to afford an opportunity of personal hearing to the authorized representative of the petitioner and re-do the assessments in accordance with law. Till fresh orders of assessment are passed, the respondent shall not initiate any coercive action against the petitioner by demanding the tax and penalty as quantified in

the impugned assessment orders. No costs. Consequently, the connected WMPs are closed.

RNA

Sd/-
Assistant Registrar [CS VI]

/TRUE COPY/

Sub-Assistant Registrar

To

The Commercial Tax Officer,
Vallalar Assessment Circle,
No.116, Angappa Naicken Street,
Chennai - 01.

+1CC to M/S.C.REKHA KUMARI Advocate SR.NO.69577

WP.Nos.25359, 25360 of 2017
& WMP.Nos.26799 to 26802 of 2017

PVS[CO]
MK:26/10/2017