IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.07.2017

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.16437 to 16440 of 2017
and W.M.P.Nos.17775 to 17782 of 2017

K.Vinothkumar ... Petitioner in all W.Ps'

Vs.

The Deputy Commercial Tax Officer [Main],
Gudiyatham [East] Assessment Circle,
Gudiyatham,
Vellore District. ... Respondents in all W.Ps'.

Common Prayer: Petitions filed under Article 226 of the Constitution of India to issue a WRIT OF CERTIORARI, to call for the records on the file of the respondent in its impugned proceedings made in TIN No.33104245096/2012-2013, 2013-2014, 2014-2015 and 2015-2016 respectively dated 31.05.2017 quash the same.

For Petitioner : Ms.R.Hemalatha
(In all W.Ps')

For Respondents : Mr.K.Venkatesh,
(In all W.Ps') Government Advocate

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COMMON ORDER

Heard Ms.R.Hemalatha, learned counsel for the petitioner and Mr.K.Venkatesh, learned Government Advocate, appearing for the respondents.

2. The petitioner has filed this writ petitions challenging the orders of assessment passed by the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006, for the years 2012-2013, 2013-2014, 2014-2015 and 2015-2016 respectively. The respondent issued notice dated 28.02.2017, proposing to revise the turnover for the relevant assessment years on verification of the Form I returns filed by them with Annexure II of the other end dealers.

3. It is an admitted fact that the other end dealers are having regular business transactions with the petitioner. But,

however, the petitioner disputed the transactions mentioned in the notice, stating that the other end dealers have misused their registration number. In this regard, they also pointed out that they have sent a legal notice to the other end dealers. The respondent without conducting any enquiry, has stated that the objection given by the petitioner cannot be accepted and he is not aware as to what happened after the legal notice was sent to the other end dealers and since they are having continuous business transactions, the request for cross examination is not capable of compliance.

4. It may be true that the petitioner and other end dealers have regular business transactions. But however, in the instant case, the dealer has taken a specific stand that the transaction reflected in the pre-assessment notice dated 28.02.2017 were not transacted by them. In such circumstances, two options are available. One is to direct the other end dealers to appear before the Assessing Officer and produce their books of accounts. The other procedure that could be done is to conduct a comprehensive enquiry by requesting the Assessing Officer of the other end dealers to provide necessary information, call both parties and permit cross examination and then complete the assessment.

5. In the instant case, this Court opines that the first option would be a better option, considering the nature of transaction and as only one dealer is involved in the matter viz., Kwality Polymetrs, which appears to be sister concerns of the other dealers. Therefore, the impugned orders are set aside and the matter is remanded to the respondent with a direction to the respondent to summon the other end dealers, through their Assessing Officer to produce the concerned books and other documents and also proof of payment of tax and after affording an opportunity of personal hearing to the petitioner as well as the other end dealers, re-do the assessment in accordance with law. The above direction will be complied with within a period of three months from the date of receipt of a copy of this order.

6. With the above direction, the writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

vsm

To

The Deputy Commercial Tax Officer [Main],
Gudiyatham [East] Assessment Circle,
Gudiyatham,
Vellore District.

+1cc to Special Government Pleader (T)sr.51780

+4cc to M/s.R.Hemalatha,Advocate sr.51501

W.P.Nos.16437 to 16440 of 2017

lrs(co)
ss(18/8/2017)