IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.10.2017

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THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

Writ Petition No.27097 & 27098 of 2017
and W.M.P.Nos.28929 & 28930 of 2017

M/s.Premier Infrastructure Products
Private Ltd., represented by its Director,
No.224/F5 Sadasivam nagar, 5th main
Road, Madipakkam, Chennai. ...Petitioner in both WPs

Vs

The Assistant Commissioner (CT),
Madipakkam Assessment Circle,
Chennai - 600 109. ...Respondent in both WPs

PETITIONS filed under Article 226 of The Constitution of India seeking to issue a Writ of Certiorari calling for the records of the respondent in his proceedings in TIN: 33550988704/2012-13 and 33550988704/2013-14 quash the notices dated 06.10.2017 issued therein.

For Petitioner : Mr.P.V.Sudakar in both WPs.
For Respondent : Mrs.Narmadha Sampath, Spl. GP in both WPs.

COMMON ORDER

Heard Mr.P.V.Sudakar, learned counsel for the petitioner, Mrs.Narmadha Sampath, learned Special Government Pleader appearing for the respondent.

2. The petitioner, which is the registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (for short the TNVAT Act), has approached this Court challenging the notices issued by the respondent - Assessing Officer dated 06.10.2017. The impugned notices are in response to the petitioner's interim reply dated 03.10.2017 to the notices proposing revision of assessment for the years 2012-13 and 2013-14, vide notices dated 20.09.2017.

3. Essentially, the notices dated 20.09.2017 issued under Section 27(1) of the TNVAT Act, proposed to revise the assessment for the relevant years based on details, which were culled out from the Intranet Website of the Department, thereby coming to the prima facie conclution that there has been purchase/sales suppression. The petitioner, vide their interim reply dated 03.10.2017, sought for the copies of the mismatch verification report suggesting omission of the purchases and sales by them so as to file a specific reply with regard to the estimated taxable turnover proposed in the notices dated 20.09.2017.

4. The respondent, vide reply notices dated 06.10.2017, informed the petitioner that there are no other necessary details, which are required to be furnished. In this regard, the attention of the petitioner was drawn to Section 17 of the TNVAT Act. Aggrieved by such notices, the petitioner is before this Court.

5. The petitioner's case rests upon the decision of this Hon'ble Court in the case of M/s.JKM Graphics Solution Pvt. Ltd., vs. Commercial Tax Officer, Vepery Assessment Circle [reported in (2017) 99 VST 343]. On a perusal of the interim reply dated 03.10.2017, this Court finds that the petitioner has not taken the specific stand as to whether they had transacted business with the selling/buying dealer, whose name/names have been furnished in the notices dated 20.09.2017. From the said notices, it is seen that the respondent has furnished the name of the dealer, the tax payer identification number, the invoice number, the date, the value and the tax payable. Thus, at the first instance, the petitioner has to take a specific stand as to whether they have effected such transactions with those dealers relatable to the invoices mentioned therein. It is only thereafter the respondent could be directed to cause verification from the other end dealer by resorting to the Official machinery. Such a stand has not been taken by the petitioner in their interim reply dated 30.10.2017. Therefore, it is too premature for this Court to apply that decision, as the petitioner is yet to take a stand. Therefore, this Court finds that there is no error in the impugned notices dated 06.10.2017.

6. In the light of the above, the impugned notices cannot be set aside at this juncture and the petitioner has to take a specific stand as to whether they transacted with the dealers mentioned in the notices dated 20.09.2017. If such a specific stand, based on facts and materials, is taken, it is for the respondent cause an enquiry and proceed to complete the assessment in accordance with law.

7. Accordingly, these writ petitions are dismissed, with a direction to the petitioner to file their reply to the notices dated 20.09.2017 on the information provided therein within a period of 15 days from the date of receipt of a copy of this order. On such materials being furnished, the respondent shall afford an opportunity of the personal hearing in the matter, conduct appropriate enquiry and proceed further in accordance with law. No costs. Consequently, the connected WMPs are closed.

Sd/-
Deputy Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

The Assistant Commissioner (CT),
Madipakkam Assessment Circle,
Chennai - 600 109.

+ 1 cc to Mr.P.V. Sudakar, Advocate Sr.74663
+ 1 cc to Special Government Pleader Sr.74662

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RK(CO)
EU(16/11/2017)