IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 30.10.2017

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.27392 to 27396 of 2017 &
W.M.P.Nos.29287 to 29296

Tvl.J.K.Enterprises, rep by its Partner,
No.271, Mint Street, Park Town, 2nd Floor,
Chennai-600 003. ... Petitioner in all W.Ps.

Vs.

The Commercial Tax Officer,
Park Town Assessment Circle,
Wavoo Mansion, Rajaji Salai,
Chennai-600 001. ... Respondent in all W.Ps.

Petitions filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, to call for the records of the respondent in TIN 33710401475/2010-11, 2011-12, 2012-13, 2013-14 & 2014-15 respectively, dated 27.06.2017 and quash the same as unjust, illegal and contrary to law and opposed to the facts and circumstances of the case.

For Petitioner : Mr.C.Rekha Kumari
For Respondent : Mr.S.Kanmani Annamalai, Additional Government Pleader

O R D E R

Heard Mrs.Rekha Kumari, learned counsel appearing for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader appearing for the respondent. With consent on either side, these writ petitions are taken up for final disposal, since the learned Government Advocate has got instructions from the respondent via e-mail dated 30.10.2017.

2.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, is aggrieved by the orders of revision of assessment for the years 2010-11 to 2014-15. It may not be necessary for this Court to go into the merits of the matter, as the challenge to the impugned proceedings is on the ground of violation of principles of natural justice. The petitioner was deemed to have been assessed under Section 22 of the TNVAT Act. Subsequently, the respondent issued pre-revision notice dated

17.08.2015, for all the assessment years. The petitioner submitted their objections dated 05.11.2015, and enclosed the relevant documents in support of their stand. From the endorsement made by the respondent in the Letter Delivery Book (copy enclosed in page No.61 of the typed set of papers), it is seen that the objections along with the seven documents were received by the Superintendent attached to the office of the respondent. Subsequently, final notice signed on 18.01.2016, was issued to the petitioner, on perusal of which, I find that the assessing officer has dealt with the documents submitted by the petitioner along with their objections dated 05.11.2015. The respondent had fixed the personal hearing on 10.02.2016. The petitioner had submitted their reply to the final notice dated 03.02.2016, once again, which was submitted in the office of the respondent, as could be seen from the endorsement made in the typed set of papers (copy enclosed in page No.140 of the typed set of papers). However, the respondent has passed the impugned orders stating that the petitioner has not filed any supporting documents along with the objections dated 05.11.2015. This is factually incorrect, as it is shown that the respondent has received objections along with documents. That apart, there is no record to show that opportunity of personal hearing was fixed on 16.08.2016. Even as per the final notice dated 18.01.2016, personal hearing was fixed on 10.02.2016. Therefore, the finding in the impugned assessment order in paragraph 3 is incorrect. The impugned assessment orders refer to a final notice dated 29.07.2016. The dealer has specifically stated before this Court that no such notice was received by the petitioner. All the above facts would clearly show that the assessment would have been completed without due application of mind and without considering the objections filed by the petitioner and in violation of principles of natural justice. These are sufficient to hold that the impugned orders are unsustainable in the eye of law.

3.Accordingly, these writ petitions are allowed, the impugned orders are set aside and the matters are remanded to the respondent for fresh consideration, who shall fix a date for personal hearing, hear the petitioner, consider their objections dated 05.11.2015 and 03.02.2016, along with the documents, and if any further documents are required to be produced, the same shall be called for and thereafter, the respondent shall re-do the assessment in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.

abr

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Commercial Tax Officer,
Park Town Assessment Circle,
Wavoo Mansion, Rajaji Salai,
Chennai-600 001.

+1cc to Special Government Pleader SR.No.77075
+5cc to M/s.C.Rekha Kumari, Advocate SR.No.77041

W.P.Nos.27392 to 27396 of 2017

PVS(CO)
sm:29.11.2017