In the High Court of Judicature at Madras

Dated: 05.01.2017

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The Honourable Mr.JUSTICE RAJIV SHAKDHER

Writ Petition Nos.275 to 279 of 2017
& WMP Nos.293 to 297 of 2017

M/s.My Electronics,
rep. by its Proprietor,
No.64, Chittoor Road,
Katpadi, Vellore District.

...Petitioner in the above W.Ps

Vs.

Commercial Tax Officer,
Gudiyatham (East) Assessment Circle,
Gudiyatham, Vellore District.

...Respondent in the above W.Ps

Common Prayer in all WP's

PETITIONs under Article 226 of The Constitution of India praying for the issuance of Writ of Certiorarified Mandamus to call for the records of the respondent in his proceedings in TIN 33794242922/2010-11, 2012-13, 2013-14, 2014-15 and 2015-16 dated 14.10.2016 and quash the order passed therein and to direct the respondent to pass revised orders for the year 2010-11, 2012-13, 2013-14, 2014-15 and 2015-16 by providing copies of the mismatch details taken from WEBSITE of the sales tax department intra-net and also by providing an opportunity of personal hearing to the petitioner.

For Petitioner : Mr.C.Baktha Siromoni
For Respondent : Mr.K.Venkatesh, G.A.

C O M M O N O R D E R

1. Issue notice. Mr.K.Venkatesh, accepts notice on behalf of the respondent.

1.1. With the consent of counsels for parties, the Writ Petition is taken up for hearing and final disposal.

2. These Writ Petitions pertain to five (5) Assessment Years (A.Ys). These being: A.Y.2010-11; A.Y.2012-13; A.Y.2013-14; A.Y.2014-15 and A.Y.2015-16.

3. The respondent has passed five (5) separate orders, qua each of the A.Ys, of even date, i.e., 14.10.2016. Before passing the impugned orders, separate notice of even date, i.e., 19.09.2016, was issued to the petitioner.

4. The record shows that the petitioner has filed objections to the notice, qua each A.Ys. These objections were dated 11.10.2016.

5. A perusal of the impugned orders shows that even as per the respondent, objections filed by the petitioner, which were dated 11.10.2016, were received on 14.10.2016, i.e., the date when the impugned order was passed.

5.1. Furthermore, the impugned orders passed would show that it is based on the mismatch in the information available qua the sellers in the Departmental website and the information available in the returns filed by the petitioner.

6. The grievance of the petitioner is that no material was supplied by the respondent, based on which, he came to the conclusion that there was a difference in the purchase turnover, as between that, which was available as per the web report and the figure, which was reflected in the petitioner's trading account or the monthly returns.

6.1. Counsel for the petitioner submits that this approach of the respondent is contrary to the following judgments of this Court:

i) Sri Vinayaga Agencies V. Assistant Commissioner (CT), Vadapalani - I Assessment Circle, Chennai and another - [2013] 60 VST 283 (Mad)

ii) The Assistant Commissioner (CT) V. M/s.Althaf Shoes (P) Limited, passed in W.A.Nos.1367 and 1368 of 2016, dated 10.11.2016. and

iii) The Assistant Commissioner (CT) V. M/s.Infiniti Wholesale Ltd., Passed in W.A.No.775 of 2016, dated 09.09.2016.

7. Mr.K.Venkatesh, learned counsel for the respondent, says that he cannot, but argue that the issue raised in the petition is covered by the aforementioned judgments.

8. Having heard the learned counsel for the parties and perused the records, quite clearly, the respondent has proceeded with haste, as he has proceeded to pass the impugned order virtually on the same day, on which date the objections were received.

8.1. Furthermore, the petitioner's submission that, no material was provided, also appears to be correct. The respondent's approach, quite clearly, is contrary to the ratio of the aforementioned judgments of this Court.

9. Therefore, the impugned orders are set aside. The respondent is, however, given liberty to redo the assessments. Before proceeding to pass fresh order of assessments, the respondent will serve written notice, calling upon the petitioner to appear before him. Along with the notice, the respondent, will, supply requisite information and details, based on which he proposes to assess the petitioner, based on the allegation that there has been a purported suppression of sales.

9.1. The petitioner will be given an opportunity to file fresh objections, based on the information to be supplied by the respondent. It is only, thereafter, that the matter will be heard and decided by the respondent.

10. The captioned Writ Petitions are disposed of in the aforementioned terms. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To
Commercial Tax Officer,
Gudiyatham (East) Assessment Circle,
Gudiyatham, Vellore District.

+1cc to Mr.BakthaSironmani, Advocate, S.R.No.968
+1cc to the Government Pleader, S.R.No.1158

SVJ(CO)
RS(30//01/2017)

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