IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2017

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.29007 to 29011 of 2017
and W.M.P. Nos.31239 to 31248 of 2017

M/s.Ojus Power Technologies Pvt. Ltd.,
Rep. by its Managing Director - Ram Sampathkumar
Sy.No.944/1 & 945/1, Thorapalli Road,
Moranapalli, Hosur - 635 109,
Krishnagiri District. ... Petitioner in all WPs.

Vs.

The Assistant Commissioner (CT),
Hosur (South) Circle,
Hosur, Krishnagiri District. ... Respondent in all WPs.

Prayer in W.P.No.29007 of 2017: Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorari, calling for the records on the file of the respondent in its impugned proceedings made in TIN No.33763365234/2013-14 dated 31.08.2017, quash the same.

Prayer in W.P.No.29008 of 2017: Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorari, calling for the records on the file of the respondent in its impugned proceedings made in TIN No.33763365234/2014-15 dated 31.08.2017, quash the same.

Prayer in W.P.No.29009 of 2017: Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorari, calling for the records on the file of the respondent in its impugned proceedings made in TIN No.33763365234/2015-16 dated 31.08.2017, quash the same.

Prayer in W.P.No.29010 of 2017: Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorari, calling for the records on the file of the respondent in its impugned proceedings made in TIN No.33763365234/2016-17 dated 31.08.2017, quash the same.

Prayer in W.P.No.29011 of 2017: Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorari,

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calling for the records on the file of the respondent in its impugned proceedings made in CST:1046744/2016-17 dated 31.08.2017, quash the same.

For Petitioner : M/s.R.Hemalatha
(in all WPs.)

For Respondent : M/s.Narmadha Sampath
(in all WPs.) Special Government Pleader

C O M M O N O R D E R

Heard M/s.R.Hemalatha, learned counsel appearing for the petitioner and M/s.Narmadha Sampath, learned Special Government Pleader appearing for the respondent accepting notice on behalf of the respondents. With the consent on either side, the writ petitions were taken up for disposal.

2.The petitioner is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act (TNVAT Act) and the Central Sales Tax Act (CST Act). In these writ petitions, the Petitioner challenges the impugned assessment orders dated 31.08.2017 for the year 2013-14 to 2016-17. The only ground on which the impugned orders are challenged is by contending that the petitioner's objections dated 10.06.2017 and 11.06.2017 respectively, though received by the Assessing Officer has not been taken note of and the assessment has been completed stating as if no objections have been received.

3.Learned Special Government Pleader accepted notice and requested for pass over so as to enable her to get written instructions from the officials. Accordingly, one of the official by name M/s.Priya has sent an Email to the learned Special Government Pleader, wherein apart from things, it has been stated that no objections were reportedly filed by the dealers and no such material records are available in the files.

4.The response given by the officer to the learned Special Government Pleader is carefully worded and on a reading of it, more than one interpretation could be given. This Court would expect a straight answer. The officer states that no objections were reportedly filed by the dealer. When the dealer has produced the copy of the objections dated 10.06.2017 and 11.06.2017 respectively, wherein the Assessing Officer has signed and a seal has also been affixed, unless and until the Assessing Officer took a stand that it is a case of forgery, communication made by the officer to the learned Special Government Pleader has to be held to be factually incorrect.

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That apart, for the earlier assessment year, the petitioner challenged a similar order in W.P.No.28503 of 2017, which has been allowed and the matter has been remanded to the Assessing Officer for fresh consideration. Thus, in the absence of any specific material to show that the objections filed by the dealer are not on record and in the absence of any denial of the signature and the seal affixed in the office copy of the objections dated 10.06.2017 and 11.06.2017 respectively, this Court is inclined to accept the case of the petitioner.

5.Accordingly, the writ petitions were allowed, the impugned orders are set aside and the matter is remanded to the Assessing Officer for fresh consideration, who shall consider the petitioner's objections, afford an opportunity of personal hearing and re-do the assessment in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-)

//True Copy//

Sub Assistant Registrar

cse
To

The Assistant Commissioner (CT),
Hosur (South) Circle,
Hosur, Krishnagiri District.

+5 cc to Mr.R.HEMALATHA Advocate, S.R.No. 80729

+1cc to the Government Pleader, S.R.No. 80899

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and
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TR(30/11/2017)

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