IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.09.2017

CORAM

THE HONOURABLE MR. JUSTICE **T.S. SIVAGNANAM**

W.P. Nos. 1897 to 1900 of 2017
&
W.M.P. Nos. 1885 to 1888 of 2017

A.R. Foundations
rep. by its Managing Partner,
P. Amarnath Reddy,
Acropolis, Ground Floor,
No.148, Dr. Radhakrishnan Salai,
Mylapore, Chennai – 600 004. ..Petitioner in all the writ petitions

Vs.

The Assistant Commissioner (CT),
Royapettah Assessment Circle,
II Floor, Taluk Office Building,
46, Greams Road,
Chennai – 600 028. ..Respondent in all the writ petitions

Prayer: Petitions under Article 226 of the Constitution of India praying for issue of a Writ of Certiorario to call for the records on the files of the respondent herein in TIN 33130782422/2012-13, TIN 33130782422/2013-14, TIN 33130782422/2014-15 & TIN 33130782422/2015-16 respectively dated 30.11.2016 and quash the same.

For Petitioner :: Mr.N. Inbarajan

For Respondent :: Mr.S. Kanmani Annamalai
Addl. Govt. Pleader

ORDER

Heard Mr.N. Inbarajan, learned counsel for the petitioner and Mr.S. Kanmani Annamalai, learned Additional Government Pleader for the respondent.

2. With the consent of learned counsel on either side, the writ petitions are taken up for disposal.

3. The petitioner, who is a registered dealer on the file of the respondent under the provisions of Tamil Nadu Value Added Tax Act, 2006 (TNVAT Act in short) is before this Court challenging the orders of revision of assessment under the said Act for the assessment years 2012-2013 to 2015-2016.

4. Though several contentions have been raised by the learned counsel for the petitioner to demonstrate that the impugned assessment orders are unsustainable in law, it would suffice to take note of the foremost contention, namely, that the Assessing Officer, who heard the petitioner, pursuant to the revision notices, was not the Assessing Officer, who passed the impugned assessment orders.

5. It is not in dispute that the pre-revision notices were issued by the Assessing Officer Tmt. K. Vijayalakshmi. The petitioner, on receipt of the pre-revision notices, submitted their elaborate objections on 22.02.2016 and further objections on 03.05.2016. On receipt of those objections, it appears that the Assessing Officer Tmt. K. Vijayalakshmi heard the petitioner's authorised representative. However, before orders could be passed, the said Officer was transferred and the present incumbent took charge. Therefore, the respondent, namely, the new Assessing Officer ought to have afforded a fresh opportunity to the petitioner to submit their objections by way of personal hearing. However, this was not done by the officer concerned. The respondent has come to the conclusion that in respect of certain sub-contractors, the petitioner has not filed supporting documents.

6. It is pointed out by the learned counsel for the petitioner that along with their objections dated 03.05.2016, apart from giving factual explanation, the petitioner had enclosed a tabulated statement clearly disclosing as to why there was no obligation on their part to deduct tax at source and for each of the transactions, they have given the details separately. Therefore, it is the submission of the learned counsel for the petitioner that if the Assessing Officer had afforded an opportunity of personal hearing, they would have been able to explain to the officer as to why there was no

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obligation on their part to deduct tax at source in respect of those transactions, where there was no such obligation.

7. The fact that the officer, who decided the matter, did not hear the petitioner is not disputed. Therefore, this is sufficient to hold that the impugned orders have been passed in violation of the principles of natural justice. Accordingly, the writ petitions are allowed and the impugned orders are set aside. The matter is remitted back to the respondent for fresh consideration. The respondent shall afford an opportunity of personal hearing to the authorised representative of the petitioner, peruse the documents produced by the petitioner, seek for any clarification, if required and re-do the assessment in accordance with law. No costs. Connected W.M.Ps are closed.

04.09.2017

nv/sai

To

The Assistant Commissioner (CT),
Royapettah Assessment Circle,
II Floor, Taluk Office Building,
46, Greams Road,
Chennai – 600 028.