IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.04.2018

Coram

The Hon'ble Mr.Justice T.S.Sivagnanam

Writ Petition Nos. 5117 to 5119 of 2018
and
W.M.P.Nos.6287 to 6289 of 2018

M/s. Unique Recording,
No.49/4, 15th Street,
Ashok Nagar,
Chennai - 600 083
Represented by Proprietor,
Harjeet Grover. ...Petitioner in all W.Ps.

Vs.

Commercial Tax Officer,
Kodambakkam Assessment Circle,
PAPJM Building, Annex IV Floor,
Greams Road, Chennai - 600 006. ...Respondent in all W.Ps.

Prayer in Writ Petition No.5117 of 2018:
Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Prohibition, prohibiting the respondent in proceedings in respect to the Notice bearing TIN:33211423063/2014-15 dated 23.11.2017.

Prayer in Writ Petition Nos.5118 and 5119 of 2018:
Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari, to call for records of the respondent in Order Assessment No.CST : 802215/2014-15, dated 14.02.2017 and 14.07.2017, and the consequential notice of final assessment and demand of the respondent in Form No.3 and to quash the same.

For Petitioner in all W.Ps. :Mr.M.V.Swaroop

For Respondent in all W.Ps. :Mr.M.Hariharan
Additional Government Advocate

COMMON ORDER

Heard Mr.M.V.Swaroop, the learned counsel appearing for the petitioner and Mr.M.Hariharan, the learned Additional Government Pleader appearing on behalf of the respondent. Since the issue involved in these Writ Petitions is identical and the relief sought for thereunder is inter-connected, these Writ Petitions have been heard together and disposed of by this common order.

2. The petitioner is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (the TNVAT, for brevity) and Central Sales Tax Act, 1956 (CST Act, for brevity). The petitioner has filed the Writ Petition No.5118 and 5119 of 2018, aggrieved by the two assessment orders passed by the respondent in respect of the same assessment year 2014-15, under the provisions of the CST Act, 1956, , dated 14.02.2017 and 14.07.2017. W.P.No.5117 of 2018 has been filed, seeking for issuance of Writ of Prohibition, prohibiting the respondent from proceeding further, pursuant to the recovery proceedings, dated 23.11.2017.

3. The petitioner's case is that, the revision notice, dated 30.11.2016 2016, was never received by them and was handed over by the Assessing Officer to the Authorized Representative of the petitioner, and when they had went and met the Assessing Officer, in person on 05.04.2017, to submit a representation, the petitioner was under fond hope that fresh notice would be issued to them and they would be heard in the matter. However, the respondent has passed the second assessment order for the same assessment year, i.e., for the year 2014-15, which is verbatim repetition of the earlier order. The order does not even record the objections filed by the petitioner, dated 05.04.2017, which was handed over in person to the Assessing Officer on the very same day.

4. Considering the facts and circumstances of the case, this Court is of the view that, the petitioner should be afforded adequate opportunity to putforth their contentions. However, I find that, in the instant case, the petitioner has not been provided reasonable opportunity and no opportunity of personal hearing has been granted to them. This is sufficient to hold that the impugned orders are unsustainable in the eye of law.

5. Accordingly, the Writ Petition Nos.5118 and 5119 of 2018 are allowed, the impugned orders are set aside and the matters are remanded to the respondent for fresh consideration. Since the impugned assessment orders are set aside, the recovery proceeding, dated 23.11.2017, which is an offshoot of the impugned assessment orders, is also quashed and consequently, W.P.No.5117 of 2018 is allowed. The respondent is directed to issue fresh notice to the petitioner, detailing all the facts and grant 15 days' time to submit their objections and on receipt of the objections, the respondent shall afford an

opportunity of personal hearing to the petitioner and redo the assessment in accordance with law. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

sd

To

The Commercial Tax Officer,
Kodambakkam Assessment Circle,
PAPJM Building, Annex IV Floor,
Greams Road, Chennai - 600 006.

+1cc to Mr.M.V.Swaroop, Advocate, sr.no.30127

+1cc to the Special Government Pleader,sr.no.29683

Writ Petition Nos. 5117 to 5119 of 2018

SG(CO)

RRK(19/04/18)