IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.04.2018

Coram

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

Writ Petition Nos.10234 to 10238 of 2018
and
W.M.P Nos.12171 to 12175 of 2018

M/s.Kubhera Cable Private Limited,
Rep. by its Authorised Signatory,
No.1, Perumal Kovil Garden, 1st Lane,
Chennai – 600 079.

..Petitioner in all W.Ps.

Vs.

Assistant Commissioner (ST),
Peddunaickenpet Assessment Circle,
Chennai – 600 001. ..Respondent in all W.Ps.

Common Prayer:

Writ Petitions, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus, call for the records of the respondent and quash the proceedings in TIN No.33070282323/2011-12, 2012-13, 2013-14, 2014-15 and 2015-16, dated 20.02.2018 as illegal and direct the respondent not to reverse input tax credit for the years 2011-12, 2012-13,2013-14, 2014-15 and 2015-16 based on third parties audit report.

(Appearance in all W.Ps)

For Petitioner : Mr.C.Bakthasiromoni

For Respondent : Mrs.G.Dhana Madhri
Government Advocate

C O M M O N O R D E R

Heard Mr.C.Bakthasiromoni, the learned counsel appearing for the petitioner and Mrs.G.Dhana Madhiri, the learned Government Advocate for the respondent. Since the issue involved in all these Writ Petitions is identical, they were heard together and disposed of by this common order.

2. The short issue, which falls for consideration in these cases is as to whether the petitioner had sufficient opportunity to putforth their contentions before the Assessing Officer.

3. The Assessing Officer has completed the assessments by passing the impugned orders on the ground that notice sent by him was returned with a postal endorsement as 'Left'. Therefore, left with no other option, the Assessing Officer has confirmed the proposal in the notices and passed the impugned orders.

4. The learned counsel appearing for the petitioner submits that during the relevant point of time, the Authorized Signatory of the petitioner was not available and therefore, the notice might have been returned by the Postal Department. However, the petitioner has filed Form-WW for all the assessment years and this has been acknowledged by the respondent by endorsing in the Letter Delivery Book, dated 02.01.2018. Further, it is submitted that the petitioner has filed applications under Section 84 of the TNVAT Act, 2006 to revise the assessment. The Applications have not been considered.

5. The Assessing Officer has given written instructions, vide his letter, dated 25.04.2018, stating that the impugned assessment orders did not suffer from any error apparent on the face of the record.

6. In my considered view, the petitioner having filed Form-WW for all the assessment years, the respondent having acknowledged the receipt of the same by signing the Letter Delivery Book, the same could have been taken into consideration and without doing so, the respondent should not have finalized the assessments.

7. Hence, for the above reason, the Writ Petitions are disposed of, by directing the petitioner to treat the impugned assessment orders as show cause notices and submit their objections within 15 days from the date of receipt of a copy of this order. On receipt of the objections, the respondent is directed to afford an opportunity of personal hearing and redo the assessment in accordance with law. Till orders are passed, no coercive action shall be initiated against the petitioner for

recovery of the tax and penalty, as quantified in the impugned assessment orders. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

Assistant Commissioner (ST),
Peddunaickenpet Assessment Circle,
Chennai - 600 001.

+1cc to Mrs.C.Bakthsiromoni, Advocate Sr.32555
+1cc to the Special Government Pleader Sr.32686

Writ Petition Nos.10234 to 10238 of 2018

ev[co]
srg 24/05/2018