IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2018

CORAM

THE HON'BLE MR. JUSTICE T.S.SIVAGNANAM

W.P.Nos.6356 to 6362 of 2018 &
W.M.P. Nos.7894 to 7900 of 2018

Dhanalakshmi Enterprises
(Adyar Ananda Bhavan)
Rep. by its Proprietor, S.Ravi
156, CTH Road, Avadi
Chennai-600 054. ... Petitioner in all WPs

v.

The Commercial Tax Officer
No.26, Vivekananda Street
Gandhi Nagar
Avadi, Chennai-54. ... Respondent in all WPs

W.P.No.6356/2018 : Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari Calling for the records on the files of the respondent herein in TIN/33651301183/2010-2011, dated 05.03.2018 and quash the same.

W.P.No.6357/2018 : Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari Calling for the records on the files of the respondent herein in TIN/33651301183/2011-2012, dated 05.03.2018 and quash the same.

W.P.No.6358/2018 : Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari Calling for the records on the files of the respondent herein in TIN/33651301183/2012-2013, dated 05.03.2018 and quash the same.

W.P.No.6359/2018 : Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari Calling for the records on the files of the respondent herein in TIN/33651301183/2013-2014, dated 05.03.2018 and quash the same.

W.P.No.6360/2018 : Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari Calling for the records on the files of the respondent herein in TIN/33651301183/2014-2015, dated 05.03.2018 and quash the same.

W.P.No.6361/2018 : Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari Calling for the records on the files of the respondent herein in TIN/33651301183/2015-2016, dated 05.03.2018 and quash the same.

W.P.No.6362/2018 : Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari Calling for the records on the files of the respondent herein in TIN/33651301183/2016-2017, dated 05.03.2018 and quash the same.

For Petitioner : Mr.N.Inbarajan

For Respondent : Ms.G.Dhanamadhri
Govt. Advocate (T)

COMMON ORDER

Heard Mr.N.Inbarajan, learned counsel for the petitioner and Ms.G.Dhanamadhri, learned Government Advocate for the respondent.

2. The petitioner in all these writ petitions is a registered dealer under the provisions of the Tamil Nadu Value Added Tax Act, 2006 on the file of the respondent and in these writ petitions, the petitioner challenges the assessment orders dated 05.03.2018 under the provisions of the TN VAT Act for the assessment years 2010-2011 to 2016-2017**.**

3. The learned counsel appearing for the petitioner raised two major contentions challenging the impugned assessment orders. The 1st , being that no opportunity of personal hearing was granted to the petitioner while revising the assessment in exercise of the powers

conferred under the TN VAT Act. The 2nd ground being that there was no proposal to levy penalty, yet, the respondent has levied penalty in the impugned assessment orders. Further, there are other issues, which have been raised by the petitioner, which touch upon the merits.

4. So far as the 1st issue raised by the petitioner, I find from a reading of the impugned orders that no opportunity of personal hearing was granted to the petitioner, though the petitioner has requested for the same in their objections dated 02.11.2017. This being a statutory requirement, the respondent could not have completed the assessment without affording an opportunity of personal hearing.

5. So far as the 2nd issue is concerned, it is seen from the reading of the notice dated 20.06.2017 show that there was no proposal to levy penalty. However, in the impugned orders the respondent has levied penalty, which is violation of principles of natural justice.

6. Thus, on the above two grounds alone, this court is inclined to set aside the impugned orders.

7. Accordingly, the writ petitions are allowed and the impugned orders are set side and the matters are remitted back to the respondent for fresh consideration who shall afford an opportunity to the petitioner to submit their objections, grant an opportunity of personal hearing and redo the assessment in accordance with law. It is made clear that it is open to the petitioner to canvass all points before the Assessing Officer. No costs. Consequently, connected miscellaneous petitions are closed.

12.04.2018

Index: Yes/No

Rj

To

The Commercial Tax Officer
No.26, Vivekananda Street
Gandhi Nagar
Avadi, Chennai-54.

T.S.SIVAGNANAM,J

Rj

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