IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.04.2018

Coram

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

Writ Petition Nos. 3480 to 3484 of 2018
and
W.M.P.Nos.4256 to 4260 of 2018

M/s.R.K.B. Roof,
Rep. by the Proprietor,
No.1526/1, Somavarakula Street,
Tiruvannamalai. ...Petitioner in all W.Ps.

Vs.

Assistant Commissioner (ST),
Tiruvannamalai-II Assessment Circle,
Tiruvannamalai District. ..Respondent in all W.Ps.

Prayer in all W.Ps.

Writ Petitions filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for the records of the respondent and to quash the proceedings in TIN No.33644662481/2011-12, 2012-13, 2013-14, 2014 -15 and 2015-16, respectively, dated 23.11.2017 as illegal and against principles of natural justice and against the various judicial decision of the Apex Court and this Court.

For Petitioner : Mr.C.Baktha Siromoni
For Respondents : Mr.M. Hariharan
Additional Government Pleader

COMMON ORDER

Heard Mr.C.Baktha Sironmoni, the learned counsel appearing for the petitioner and Mr.M.Hariharan, the learned Additional Government Pleader 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 petitioner, who is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (TNVAT Act, for brevity) has filed these Writ Petitions, challenging the assessment orders passed by the respondent under the provision of the TNVAT for the assessment years 2011-12, 2012-13, 2013-14, 2014 -15 and 2015-16 dated 23.11.2017.

3. At the outset, Mr.C.Baktha Siromoni, the learned counsel appearing for the petitioner has brought to the notice of this Court that the petitioner had approached this Court earlier, and filed W.P.No.1587 of 2018, praying for issuance of a writ of certiorarified mandamus to quash the assessment order passed by the respondent, dated 23.11.2017. The Court, after taking into consideration the issue involved therein, allowed the Writ Petition, set aside the order passed by the respondent, dated 23.11.2017 and directed the respondent to proceed with the matter by following the direction issued in JKM Graphics Solutions Private Limited v. Commercial Tax Officer, Vepery Assessment Circle, Chennai reported in 2017 99 VST 343 (Mad). The relevant paras of the order passed in W.P.No.1587 of 2018, dated 12.04.2018, is extracted herein below:-

> " 3. Though the petitioner contended that the main revision of assessment is barred by limitation, the said contention was given up and the petitioner sought to canvass the issue only with regard to "mismatch".
>
> 4. After receipt of the revised notice dated 10.08.2017, the petitioner sent a reply dated 25.09.2017 pointing out that without conducting any enquiry, the petitioner cannot be penalized on the ground that there is mismatch between the details furnished in Annexure-1 and Annexure-2.
>
> 5. On a perusal of the impugned order, I find that the respondent has accepted the fact that the petitioner had filed objections on 25.09.2017 and has rejected the same in a single line stating that there is no merit in the dealer's reply. The manner in which the respondent rejected the objections of the petitioner is illegal. The respondent should have considered the objections and furnished the requisite details, conducted enquiry and then passed an order.
>
> 6. The manner in which the assessment should be completed, when there is an allegation of mismatch was considered by this court in the case of JKM Graphics Solutions Private Limited v. Commercial Tax

Officer, Vepery Assessment Circle, Chennai reported in 99 VST 343 and directions have been issued. The respondent should follow the said directions and then proceed in accordance with law.

7. For the above reasons, the writ petition is allowed and the impugned order is set aside and the matter is remitted back to the respondent to follow the decision in M/s.J.K.M. Graphics Solutions Private Limited [cited supra] and proceed in accordance with law. No costs. Consequently, connected miscellaneous petition is closed."

4. The above decision rendered by this Court would squarely extend to the present case, and the only difference in this case is the assessment years.

5. Thus, in the light of the above referred decision, the present Writ Petitions are allowed, the impugned orders are set aside and the matters are remitted back to the respondent to follow the decision in M/s.J.K.M. Graphics Solutions Private Limited [cited supra] and proceed in accordance with law. No costs. Consequently, connected writ miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

sd

To
The Assistant Commissioner (ST),
Tiruvannamalai-II Assessment Circle,
Tiruvannamalai District.

+1cc to Mr.C.Baktha Siomani, Advocate, sr.no.29405

Writ Petition Nos. 3480 to 3484 of 2018

SKV(CO)

RRK(30/05/18)