IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.04.2018

CORAM

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

W.P.No.10543 of 2017 &
W.M.P. No.11455 of 2017

M/s.Selvam Agencies
Rep by its Proprietor, Mr.K.Selvakumar
No.19/12, Anthiyur Main Road
Appakudal Naal Road, Sakthi Nagar Via
Bhavani Taluk, Erode District ... Petitioner

vs

The Assistant Commissioner (CT)
Bhavani Assessment Circle
Mettur Main Road, Bhavani
Erode District ...Respondent

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records of the respondent in TIN No.33552943642/2013- 2014, dated 17.01.2017 and quash the same as illegal, arbitrary, without jurisdiction and against the provisions of the Act.

For Petitioner : Mr.K.Soundararajan

For Respondent : Mr.M.Hariharan
Addl. Govt. Pleader (T)

ORDER

Heard Mr.K.Soundararajan, learned counsel appearing for the petitioner and Mr.M.Hariharan, learned Additional Government Pleader for the respondents.

2. The petitioner has filed this writ petition challenging the assessment order under the provisions of the Tamil Nadu Value Added Tax Act, 2006 for the assessment year 2013- 2014.

3. The main ground of challenge raised by the petitioner is

that the objections filed by the petitioner were not considered, though it has been acknowledged in the office of the respondent. Apart from that the respondent did not follow the proceedings of the Advance Ruling Authority in respect of the EC recharge coupons and therefore, the impugned assessment order is unsustainable. In this regard, the learned counsel for the petitioner has drawn the attention of this court to the clarification of the proceedings of the Advance Ruling Authority, dated 29.10.2014. Further, the learned counsel relied upon the Circular of the Commissioner of Commercial Taxes, dated 20.04.2001.

4. Written instructions submitted by the learned Additional Government Pleader states that in the assessment file, the objections given by the dealer were not available and an opportunity of personal hearing was allowed by the Assessing Officer to the dealer.

5. Assuming the stand taken by the respondent that an opportunity of personal hearing being afforded to the dealer, then, at the time of hearing, the dealer would have brought to the notice of the Assessing Officer that the objections have been filed by them. More so, the assessment was taken up for completion after several months after the revision notice was issued, therefore, I am satisfied that there has been violation of principles of natural justice.

6. Thus, for the above reasons, the writ petition is allowed and the impugned order is set side and the matter is remitted back to the respondent for fresh consideration. The petitioner is directed to appear in person before the respondent, within a period of fifteen days from the date of receipt of a copy of this order and submit copy of the objections dated 09.09.2016 along with a copy of this order and on receipt of the objections, the respondent shall fix a date for personal hearing and redo the assessment, in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

rj

To

The Assistant Commissioner (CT)
Bhavani Assessment Circle
Mettur Main Road, Bhavani
Erode District

+1cc to Mr.K.Soundararajan, Advocate, S.R.No.28294
+1cc to the Government Pleader, S.R.No.28544

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NRL(CO)
CS/11/05/18