IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 09.07.2018

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.10490 and 10491 of 2018
and W.M.P.Nos.12440 and 12441 of 2018

M/s.Apindhra Tex
Represented by its Partner
Mr.T.M.Suresh
No.46-47, Malligai Nagar
College Road
Tirupur – 641 602. .. Petitioner in both W.Ps'

Versus

1.The Assistant Commissioner (ST)
North Circle, Tirupur.

2.The Sales Tax Officer (Enforcement)
Group – I, Tirupur.

3.The Sales Tax Officer (Enforcement)
Group – II,
Earlier Commercial Tax Officer
(Enforcement)
Group – II, Tirupur. .. Respondent in both W.Ps'

These Writ Petitions are filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari, call for the impugned proceedings of the first respondent in TIN:33502305167/2015-2016 and TIN: 33502305167/2016-2017 and quash the impugned order dated 09.04.2018 and 10.04.2018 as passed contrary to the provisions of the TNVAT Act and against the principles of natural justice.

For Petitioner : Mr.P.Rajkumar
(In both W.Ps')

For Respondent : Ms.G.Dhana Madhri
(in both W.Ps') Government Advocate

COMMON ORDER

Heard Mr.P.Rajkumar, learned counsel appearing for the petitioner and Ms.G.Dhana Madhri, learned Government Advocate appearing for the respondents.

2. The petitioner, who is a registered dealer on the file of the respondents under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (TNVAT Act), has filed these writ petitions challenging the assessment orders for the years 2015-2016 and 2016-2017.

3. On a reading of the impugned order, it is seen that it is verbatim reproduction of the report given by the Enforcement Wing Officers. In fact, this is more clearer on a perusal of the revision notice dated 21.12.2016, wherein, the Officer has stated that some defects were noticed and tax due with penalty recorded in the statement was accepted and signed by the partners. Thus, it is evident that the respondents did not independently apply her mind to the objections, but verbatim followed the report given by the Enforcement Wing Officers. Furthermore, opportunity of personal hearing has not been granted. The respondent had stated in the impugned orders that she has verified the recovered slips. This verification was done in the absence of the petitioner.

4. The para wise instructions given by the respondents to the learned Government Advocate vide her letter dated 26.06.2018, is verbatim reproduction of the impugned assessment orders. Therefore, the same does not render any assistance to the learned Government Advocate.

5. Thus for the above reasons, it is held that the impugned orders are in violation of principles of natural justice and liable to be set aside.

6. In the result, these writ petitions are allowed and the impugned orders are set aside and the matter is remitted to the respondent for fresh consideration. The respondent is directed to afford an opportunity of personal hearing, verify the records and take an independent decision in the matter without being in any manner influenced by the report of the Enforcement officer and pass a speaking order on merits and in accordance with law. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

vsm

To

1.The Assistant Commissioner (ST)
North Circle, Tirupur.

2.The Sales Tax Officer (Enforcement)
Group - I, Tirupur.

3.The Sales Tax Officer (Enforcement)
Group - II,
Earlier Commercial Tax Officer (Enforcement)
Group - II, Tirupur.

+ 1 cc to Mr. P.Rajkumar, Advocate Sr.44291

W.P.Nos.10490 and 10491 of 2018

NA(CO)
EU(20/07/2018)