IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2018

CORAM

THE HON'BLE MR. JUSTICE M.DURAISWAMY

Writ Petition Nos.2099 and 2130 of 2018
and W.M.P.Nos.2606 and 2648 of 2018

M/s.V.S.S.Agencies,
Rep.by its Proprietor,
Selliamman Koil Street,
Serakuppam, Vadalur,
Cuddalore District. .. Petitioner
(in W.P.No.2099 of 2018)

M/s.Thangam Automobiles,
Rep.by its Proprietor,
No.116-A, Cuddalore Main Road,
Vadalur,
Cuddalore - 607 303. .. Petitioner
(in W.P.No.2130 of 2018)

Vs

1.Commercial Tax Officer,
Cuddalore Taluk Assessment Circle,
Cuddalore, Cuddalore District.

2.Joint Commissioner (CT),
Vellore Division,
Vellore District. .. Respondents
(in both W.Ps)

Writ petitions filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records of the first respondent and to quash the assessment proceedings in TIN No.33884403262/2012-13 and 33824403489/2012-13, dated 26.12.2017 as illegal and direct the second respondent to set aside the impugned assessment order under Section 53 of Tamil Nadu Value Added Tax Act 2006 and direct some other officer to pass fresh orders after providing an opportunity of personal hearing to the petitioner, respectively.

For Petitioners : Mr.C.Baktha Siromoni
(in both W.Ps)

For Respondents : Mr.M.Hariharan,
Additional Government Pleader (Tax)
(in both W.Ps)

COMMON ORDER

The petitioners have filed the above writ petitions to issue Writs of Certiorarified Mandamus, to call for the records of the first respondent and quash the assessment proceedings dated 26.12.2017 and to direct the second respondent to set aside the impugned orders under Section 53 of Tamil Nadu Value Added Tax Act 2006 and to direct some other officer to pass fresh orders after providing an opportunity of personal hearing to the petitioner.

2.The learned counsel for the petitioners submitted that the impugned orders have been challenged, by contending that earlier, the Assessing Officer was the Departmental Representative when the petitioners filed Appeals before the Appellate Authority challenging the original assessment orders dated 31.10.2013 and 30.1.2014 and by passing the impugned orders, he has acted as a Judge of his own cause. It is further submitted that after the Appellate Authority remanded the matter, the Assessing Officer issued the notice dated 21.11.2016, for which, the petitioners have sent reply on 07.03.2017, which was received by the Deputy Commercial Tax Officer / Superintendent, Cuddalore Taluk by endorsing in the Local Delivery Book. It is a settled position that the Officer cannot act as a Judge of his own cause, therefore, the impugned orders dated 26.12.2017 are liable to be set aside.

3. Mr.M.Hariharan, learned Additional Government Pleader (Tax) for the respondents submitted that the impugned orders dated 26.12.2017, may be set aside and the matter may be remitted back to some other Commercial Tax Officer, with a direction to decide the matter afresh.

4. In view of the submissions made by the learned counsel on either side and for the reasons stated above, the impugned orders dated 26.12.2017 are set aside and the matter is remitted back to the second respondent for deciding the matter afresh. Accordingly, the second respondent is directed to refer the matter to some other Officer, for deciding the same on merits and in accordance with law, after affording an opportunity of personal hearing to the petitioners.

5. With these observations, these writ petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Commercial Tax Officer,
Cuddalore Taluk Assessment Circle,
Cuddalore,
Cuddalore District.

2.The Joint Commissioner (CT),
Vellore Division,
Vellore District.

+2cc to Mr.C.Baktha Siromoni, Advocate, S.R.No.22024,22025

+1cc to the Government Pleader, S.R.No.22073

Writ Petition Nos.2099 and 2130 of 2018
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RRK(26/03/2018)