IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 09.07.2018

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.9731 to 9735 of 2018
and W.M.P.Nos.11653 to 11657 of 2018

M/s.Farwood Industries Limited
Rep. by the Managing Director
No.2/546, East Coast Road
Neelankarai
Chennai - 600 041. .. Petitioner in all W.Ps'

Versus

Assistant Commissioner (CT)
Sholinganallur Assessment Circle
Chennai - 600 096. .. Respondent in all W.Ps'

These Writ Petitions are filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus, calling for the records of the respondent in his proceedings of the mismatch assessment order in TIN No.33020920465/2010-11, 2011-12, 2012-13, 2013-14 and 2014-15 dated 06.03.2018 and quash this assessment proceedings as illegal and direct the respondent to pass fresh orders by following the principle of law laid down by the orders of the Division Bench of the Supreme Court in 109 STC 439 (SC) and after giving personal hearing.

For Petitioner (In all W.Ps') : Mr.C.Baktha Siromoni

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

COMMON ORDER

Heard Mr.C.Baktha Siromoni, learned counsel appearing for the petitioner and Ms.G.Dhana Madhri, learned Government Advocate appearing for the respondent.

2. The petitioner has filed these writ petitions challenging the assessment orders under the provisions of the

Tamil Nadu Value Added Tax Act, 2206 (TNVAT Act) for the assessment years 2010-11 to 2014-15. The impugned order has been challenged on the ground that it is in violation of principles of natural justice, without considering the petitioner's reply dated 22.05.2017 and 20.10.2017, and in violation of settled legal position as laid down by this Court in the case of M/s.JKM Graphics Solutions Private Limited and others Vs. Commercial Tax Officer [99 VST 344].

3. In the counter affidavit, the respondent has stated that the petitioner has not filed any objections. However, I find that both the objections filed by the petitioner dated 22.05.2017 and 20.10.2017 have been acknowledged by the Assistant Commissioner, Sholinganallur Assessment Circle, by signing the Letter Delivery Book dated 24.05.2017. Therefore, it is incorrect on the part of the respondent to state that no objections were filed by the petitioner.

4. The learned Government Advocate pointed out that the objection, stated to have been filed on 20.10.2017, has not been received by the respondent and it has been stated in the counter affidavit.

5. Even assuming that the said submission is correct, the respondent should have considered the objections dated 22.05.2017, which was acknowledged by the Officer on 24.05.2017. Furthermore, the special request for grant of personal hearing has not been afforded. These are all sufficient to hold that the impugned orders are vitiated and liable to be set aside.

6. In the result, these writ petitions are allowed, the impugned orders are set aside and the matter is remitted to the respondent for fresh consideration, who shall consider the petitioner's objections dated 22.05.2017 and 20.10.2017, afford an opportunity of personal hearing and consider the documents that the petitioner would produce and take an independent decision in the matter without being influenced by any directions issued by the superior authorities. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

vsm

To

Assistant Commissioner (CT)
Sholinganallur Assessment Circle
Chennai - 600 096.

W.P.Nos.9731 to 9735 of 2018

MP(CO)
CS/24/07/18