IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 16.03.2018
CORAM
THE HONOURABLE Mr. JUSTICE M.DURAISWAMY
W.P.Nos.5951 to 5955 of 2018 &
W.M.P.Nos.7324 to 7328 of 2018

M/s.Sri Maruthi Leathers
Rep. by its Proprietor
Mr.T.Selvakumar
No.1/1134, Thiruvalluvar Nagar
Puliyankannu Village
Ranipet-632 404.
.. Petitioner in all W.Ps

v.

1 The Assistant Commissioner(ST)
Ranipet (SIPCOT)
Ranipet.

2 The Commercial Tax Officer(CT)
Enforcement Group-III
Vellore-632 001.

3 The Assistant Commissioner(ST)
Computer and Enforcement Division
Greams Road
PAPJM Buildings
Chennai-600 006. .. Respondents in all W.Ps

W.P.No.5951/2018 filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records of the first respondent in TIN :33924363761 / 2011-12, dated 14.11.2017, quash the same and further direct the respondents to re-do the assessment after compliance of principles of natural justice by completing the investigation and enquiry on the complaint filed by the petitioner dated 12.06.2017 and thereafter pass assessment orders without being influenced by the VSI-3 No.809 / 2017-18 dt.26.09.2017.

W.P.No.5952/2018 filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records of the first respondent in TIN :33924363761 / 2012-13, dated 14.11.2017, quash the same and further direct the respondents to re-do the assessment after compliance of principles of natural justice by completing the investigation and enquiry on the complaint filed by the petitioner dated 12.06.2017 and thereafter pass assessment orders without being influenced by the VSI-3 No.810 / 2017-18 dt.26.09.2017.

W.P.No.5953/2018 filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records of the first respondent in TIN :33924363761 / 2013-14, dated 14.11.2017, quash the same and further direct the respondents to re-do the assessment after compliance of principles of natural justice by completing the investigation and enquiry on the complaint filed by the petitioner dated 12.06.2017 and thereafter pass assessment orders without being influenced by the VSI-3 No.811 / 2017-18 dt.26.09.2017.

W.P.No.5954/2018 filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records of the first respondent in TIN :33924363761 / 2014-15, dated 14.11.2017, quash the same and further direct the respondents to re-do the assessment after compliance of principles of natural justice by completing the investigation and enquiry on the complaint filed by the petitioner dated 12.06.2017 and thereafter pass assessment orders without being influenced by the VSI-3 No.812 / 2017-18 dt.26.09.2017.

W.P.No.5955/2018 filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records of the first respondent in TIN :33924363761 / 2015-16, dated 14.11.2017, quash the same and further direct the respondents to re-do the assessment after compliance of principles of natural justice by completing the investigation and enquiry on the complaint filed by the petitioner dated 12.06.2017 and thereafter pass assessment orders without being influenced by the VSI-3 No.813 / 2017-18 dt.26.09.2017.

For Petitioner : Mr.V.Sundareswaran
in all WPs

For Respondent : Ms.G.Dhana Madhri
in all WPs Government Advocate (T)

COMMON ORDER

Ms.G. Dhana Madhri, learned Government Advocate (Tax) takes notice for the respondents. By consent, the main writ petitions are taken up for disposal at the admission stage itself.

2. The petitioner has filed the above writ petitions to issue a Writ of Certiorarified Mandamus to call for the impugned proceedings of the respondent dated 14.11.2017 in respect of the assessment years 2011-12, 2012-13, 2013-14, 2014-15 and 2015-16, to quash the same and further direct the respondents to re-do the assessment after compliance of principles of natural justice by completing the investigation and enquiry on the complaint filed by the petitioner dated 12.06.2017 and thereafter pass assessment orders without being influenced by the order dated 26.09.2017.

3. It is the case of the petitioner that the petitioner has filed a criminal complaint to the District Superintendent of Police giving the details of the effecting bogus purchases from

the petitioner running to several lakhs of rupees and to take action against them. The petitioner also filed complaint to the Assistant Commissioner (CT), Ranipet and Assistant Commissioner, Computer Section and Business Intelligence Unit, viz., the 3rd respondent. Further, it is the case of the petitioner that the 1st respondent had passed the impugned orders without furnishing copies of the records of the third parties and also giving an opportunity to rebut the correctness of the entries or statement by affording cross examination to them.

4. It is settled position that if a party is relying upon any record belonging to the third party, which is adverse to the petitioner, in such circumstances, the petitioner should be given an opportunity to rebut the contents of the documents by giving an opportunity to cross examine the witnesses with regard to third party documents. In the case on hand, the 1st respondent had passed the impugned orders, without affording an opportunity to the petitioner to cross examine the witnesses with regard to the correctness of the third party documents.

5. Ms.G. Dhana Madhri, learned Government Advocate (Tax) appearing for the respondents fairly submitted that since the petitioner was not given an opportunity to rebut the contents of the documents, the impugned orders may be set aside and the matters may be remitted back to the 1st respondent for fresh consideration.

6. In view of the submissions made by the learned counsel on either side, since the petitioner was not given due opportunity to rebut the contents of the third party documents, which is violative of principles of natural justice, the impugned orders dated 14.11.2017 are liable to be set side . Accordingly, the impugned orders dated 14.11.2017 are set aside and the matters are remitted back to the 1st respondent for fresh consideration and the 1st respondent is directed to decide the matter afresh, after giving due opportunity to the petitioner to cross examine the witnesses with regard to third party documents and decide the matter afresh, after affording an due opportunity of personal hearing to the petitioner.

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

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

Rj

To

1 The Assistant Commissioner(ST)
Ranipet (SIPCOT)
Ranipet.

2 The Commercial Tax Officer(CT)
Enforcement Group-III
Vellore-632 001.

3 The Assistant Commissioner(ST)
Computer and Enforcement Division
Greams Road
PAPJM Buildings
Chennai-600 006.

+1cc to Mr.V.Sundareswaran, Advocate sR.no.20158
+1cc to Special Government Pleader SR.No.20718

EV(CO)
sm:27.3.2018

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