IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :07.02.2018

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.13065 to 13069 of 2017 and
WMP.NoS.13944 to 13952 of 2017

Tvl.Andavar Agencies,
rep.by its Proprietrix,
S.Ahmedunisa,
No.39-B, Raja Bather Street,
Tirupattur-635 601,
Vellore District. ... Petitioner in all WPs.

Vs.

The Assistant Commissioner (CT),
Tirupattur Assessment Circle,
Tirupattur. ...Respondent in all WPs.

COMMON PRAYER:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari filed Mandamus calling for the records on the files of the respondent in TIN:33754621438/2010-11, 2011-12, 2012-13, 2013-14, 2014-15 dated 04.05.2017 and connected proceeding dated 29.07.2016, 29.07.2016, 12.08.2016, 12.08.2016 and 12.08.2016 and quash the same as being without jurisdiction and authority of law and contrary to the principles of natural justice and further directing the respondent to pass order afresh after enquiry and opportunity to produce the books of accounts.

For Petitioner in all WPs : Mr.R.Senniappan
For Respondent in all WPs : M/s.G.Dhanamadhri, GA

COMMON ORDER

Heard Mr.R.Senniappan, learned counsel for petitioner and Mrs.G.Dhanamadhri , learned Government Advocate for the respondents and carefully perused the materials placed on record including the remarks furnished by the respondent to the learned Special Government Pleader (Taxes) vide his letter dated 23.06.2017. This Court need not labour much to decide the controversy raised in the writ petition on account of interim direction which was granted by this Court, when the writ petition was entertained and direction which was issued on 18.05.2017 reads as follows:

"Mr.S.Kanmani Annamalai, Additional Government Pleader (Taxes), takes notice for the respondent.

2. Despite remittance of taxes by cheque, the respondent, for the reasons best known to him, returned the same along with all the enclosures and issued the impugned notice dated 04.05.2017. This sort of approach, that too by a Revenue Official, cannot be countenanced. Hence, the petitioner is directed to resubmit the papers along with Demand Drafts for Rs.19,949/- for the year 2010-11, Rs.19,305/- for the year 2011-12, Rs.19,804/- for the year 2012-13, Rs.55,337/- for the year 2013-14 and Rs.6,19,548/- for the year 2014-15, within a period of two weeks from the date of receipt of a copy of this order.

3.Call the matter on 12.06.2017. Till then, there shall be an order of interim stay. If the petitioner fails to deposit the demand drafts as directed above, the stay gets vacated automatically."

2. The above direction has been complied with by the petitioner and the revised returns were re-submitted and payments were made by Demand Draft which according to the petitioner is the admitted tax. As on today, the revised returns along with the payments effected by the petitioner are on the file of the respondent. The respondent has taken a stand that the revised returns have been filed after five years that to after inspection and issuance of show cause notice. Therefore, invoking rule 7(9) of the TNVAT Rules, the respondent rejected the revised returns. However, it may not be necessary for the Court to adjudicate the said issue, on account of the interim direction issued by the Court, now the revised returns are pending consideration before the respondent and the admitted tax amount as admitted by the petitioner in the return has been remitted. Therefore, interest of revenue will be safeguarded, if the respondent completes the assessment based on the returns submitted by the petitioner pursuant to the direction issued by this Court on 18.05.2017.

3. For the above reasons, the writ petitions are allowed and the respondent is directed to pass orders on merits and in accordance with law by considering the revised returns and after

affording an opportunity of personal hearing to the authorized representative of the petitioner. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

sk/sai

To

The Assistant Commissioner (CT),
Tirupattur Assessment Circle,
Tirupattur.

+1cc to Mr.R.Senniappan, Advocate, S.R.No.9240
+1cc to the Special Government Pleader, S.R.No.10381

W.P.Nos.13065 to 13069 of 2017

SK(CO)
CS/01/03/18