IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.4.2018

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WRIT PETITION NOS.11286 TO 11289 OF 2018
& WMP.NOS.13183 TO 13187 OF 2018

M/s.Trans Tempo Private Limited,
rep.by its Director Mr.H.Razeen
Ahmed ...Petitioner

Vs

1.The Assistant Commissioner (ST),
Nungambakkam Assessment Circle,
Chennai.

2.The Commercial Tax Officer,
Group VIII, Enforcement (Central),
Chennai-6. ...Respondents

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorari to call for the impugned proceedings of the first respondent respectively in TIN : 33700460990/2014-15, TIN : 33700460990/2015-16, TIN : 33700460990/2016-17 and TIN : 33700460990/2017-18 and quash the impugned orders dated 28.3.2018 as passed contrary to the provisions of the Tamil Nadu Value Added Tax Act, 2006.

For Petitioner : Mr.P.Rajkumar
For Respondents : Mrs.G.Dhana Madhri, GA

COMMON ORDER

Mrs.G.Dhana Madhri, learned Government Advocate accepts notice for the respondents. Heard both. By consent, the writ petitions are taken up for joint disposal.

2. The petitioner is a registered dealer on the file of the first respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006. The petitioner is a distributor of Bajaj Tempo and is trading in automobile spare parts. The petitioner has filed these writ petitions challenging the assessment orders for the years 2014-15 to 2017-18.

3. So far as the assessment orders for the years 2014-15 and 2015-17 are concerned, the petitioner sought for invoice details, as the allegation was that there is a mismatch between Annexure I and Annexure II.

4. It is seen that the officer concerned, vide endorsement dated 24.11.2017 in the petitioner's representation dated 22.11.2017, stated that invoice details for the year 2015-16 have been furnished and the petitioner had to file their reply on or before 30.11.2017. So far as the invoice details for the year 2014-15 are concerned, the details would be sent shortly.

5. According to the petitioner, they had given reconciliation statement for the year 2015-16. However, the first respondent did not furnish the details for the year 2014-15, but finalized the assessment and passed the assessment order dated 28.3.2018 stating that no objections were filed.

6. Record of the proceedings shows that the officer stated that the details for 2014-15 would be furnished shortly. Therefore, without furnishing the details, the assessment order for the year 2014-15 could not have been passed. In so far as the assessments for the years 2016-17 and 2017-18 are concerned, the petitioner paid the tax. However, there is a levy of penalty.

7. The learned counsel for the petitioner submits that penalty under Section 27(3) of the said Act is not levyable, since the year will be over only by 31.3.2018.

8. Considering the facts and circumstances of the case, this Court is fully convinced that the assessments have to be redone since, presumably, the officer was working as against the target for 31.3.2018 and passed the assessment orders. This Court repeatedly points out that whenever there is a mismatch issue, it has to be dealt with in a proper manner and an enquiry is required to be conducted.

9. Accordingly, the writ petitions are disposed of with a direction to the first respondent to furnish all the details sought for by the petitioner within 15 days' from the date of receipt of a copy of this order. On receipt of the details, the petitioner is granted 45 days' time to file their objections. After receipt of the objections, the first respondent shall

afford an opportunity of personal hearing to the petitioner and redo the assessments in accordance with law. Till then, no coercive action shall be initiated against the petitioner for recovery of tax and penalty as quantified in the impugned assessment orders. No costs. Consequently, the connected WMPs are closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Assistant Commissioner (ST),
Nungambakkam Assessment Circle,
Chennai.

2. The Commercial Tax Officer,
Group VIII, Enforcement (Central),
Chennai-6.

+1cc to Mr.P.Rajkumar, Advocate, S.R.No.31981
+1cc to the Special Government Pleader, S.R.No.32682

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CS/18/05/18