In the High Court of Judicature at Madras

Dated : 19.1.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.1132 to 1134 of 2018 & WMP.Nos.1410 to 1412 of 2018

M/s.E-Kitchen Ventures, rep.by
its Proprietor Avinash M.Karlo ...Petitioner in all WP's

Vs

1.The Assistant Commissioner (CT),
Salem Town (North) Assessment
Circle, Salem.

2.The Commercial Tax Officer
(Enforcement), Group-I,
Salem. ...Respondents in all WP's

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorarified Mandamus to call for the records of the first respondent respectively in TIN.33182663661/2013-14, TIN. 33182663661/2014-15 and TIN.33182663661/2015-16, all dated 13.10.2017 (received on 22.12.2017), quash the same and further direct the first respondent to redo the assessment without following the unauthorized VAT audit report forwarded by the second respondent in VSI-3/S1.No.9/2015-16 dated 04.1.2016 by considering the detailed objections filed by the petitioner dated 06.5.2016 and 24.10.2017 after giving an opportunity of being heard.

For Petitioner : Mr.V.Sundareswaran
For Respondents : Mr.M.Hariharan, AGP

COMMON ORDER

Mr.M.Hariharan, learned Additional Government Pleader accepts notice for the respondents. Heard both. By consent, the writ petitions are taken up for joint disposal.

2. The petitioner, which is a registered dealer on the file of the first respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006, is aggrieved by the impugned assessment orders passed under the said Act for the years 2013-14 to 2015-16, as the petitioner's objections were not

considered and it has been stated in the impugned orders that no objections were filed to the revision notices.

3. The Assessing Officer, who was then holding charge as the Assistant Commissioner (CT), Salem Town (North) Assessment Circle, issued notices dated 14.12.2015 separately for all the three assessment years, for which, the petitioner had given their objections on 06.5.2016. After the officer was transferred, the new officer Mr.P.Dhanasekaran took over charge and issued the second notice dated 01.9.2017 again separately for all the three assessment years.

4. The petitioner would state that they had filed their reply dated 19.10.2017, which were received by the office of the first respondent on 24.10.2017, as could be seen from the endorsements in the letter delivery book. However, the first respondent, without referring to his second notice dated 01.9.2017, referred only to the notice dated 14.12.2015 and without taking note of the objections dated 06.5.2016, passed the impugned assessment orders confirming the proposal in the revision notices.

5. The postal covers, by which, the assessment orders were communicated to the petitioner, have been dispatched on 22.12.2017 and were received by the petitioner on 23.12.2017. Thus, it is seen that as on 21.12.2017, the petitioner's objections to the second notice dated 01.9.2017 for the relevant assessment years were very much available on the file of the first respondent. Therefore, the impugned orders are in violation of the principles of natural justice for non consideration of the objections. This is sufficient to set aside the impugned orders.

6. Accordingly, the writ petitions are allowed, the impugned assessment orders are set aside and the matters are remanded to the first respondent for a fresh consideration. The first respondent shall consider the petitioner's objections dated 06.5.2016 and 19.10.2017, afford an opportunity of personal hearing to the authorized representative of the petitioner and redo the assessment in accordance with law. No costs. Consequently, the connected WMPs are closed.



Sd/-
Assistant Registrar(CS-ix)

//True Copy//

Sub Assistant Registrar

To
1.The AC (CT),
Salem Town (North) Assessment Circle, Salem.

2.The Commercial Tax Officer (Enforcement),
Group-I, Salem.

+1cc to Mr.V.SUNDARESWARAN, Advocate, S.R.No. 4320
+1cc to the Spl Government Pleader(taxes), S.R.No. 4926

WP.Nos.1132 to 1134 of 2018&
WMP.Nos.1410 to 1412 of 2018

SVI(CO)
TR(08/02/2018)