In the High Court of Judicature at Madras

Dated : 19.1.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.1136 to 1140 of 2018 &
WMP.Nos.1414 to 1418 of 2018

Ashok Agencies, rep.by its
Partner Mr.S.Saravana Kumar ...Petitioner

Vs

1. The Assistant Commissioner (ST),
   Salem Town North Assessment
   Circle, Hasthampatty, Salem-7.

2. The Commissioner of Commercial
   Taxes, Ezhilagam, Chennai-5. ...Respondents

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 case from the file of the first respondent herein, quash the impugned assessment orders passed by the first respondent respectively in (i) TIN. 33142660773/2009-10 for the assessment year TNAVT/2009-10, TIN. 33142660773/2010-11 for the assessment year TNAVT/2010-11, TIN. 33142660773/2011-12 for the assessment year TNAVT/2011-12, TIN. 33142660773/2012-13 for the assessment year TNAVT/2012-13 and TIN. 33142660773/2013-14 for the assessment years TNAVT/2013-14, all dated 02.11.2017 (served on 27.12.2017) and direct the first respondent to consider objections dated 12.3.2014, 09.11.2017 and 23.11.2017 and grant an opportunity of personal hearing.

For Petitioner : Mr.R.Venkatraman, SC for
Mrs.Lakshmi Sriram
For Respondents : Mr.M.Hariharan, AGP

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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 is aggrieved by the orders of assessment passed by the first respondent for the assessment years 2009-10 to 2013-14 on the ground that the impugned orders are in total violation of the principles of natural justice and outcome of

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total non application of mind without adhering to the circular issued by the Commissioner dated 17.4.2007.

3. The predecessor officer issued a combined revision notice dated 07.2.2014 for all the assessment years proposing to revise the assessments. The petitioner filed their objections on 12.3.2014. However, for 3 1/2 years nothing had happened and after the present officer took over charge, the second notice dated 21.9.2017 for all the relevant assessment years was issued. On receipt of the notice dated 21.9.2017, the petitioner sent a letter dated 26.10.2017 seeking six months' time to file their objections. Further, the objections dated 09.11.2017 were made ready and were taken to the office of the first respondent.

4. It is stated that the first respondent refused to receive the objections dated 09.11.2017. Therefore, on 23.11.2017, the objections were sent by registered post and received by the office of the first respondent on 26.12.2017, as could be seen from postal acknowledgements. However, on the very next day, the impugned assessment orders were passed by putting the date as 02.11.2017.

5. This Court is of the prima facie view that in all probabilities, the impugned orders are antedated. In any event, as on 26.12.2017, the objections filed by the petitioner sent through registered post, were on the file of the first respondent and therefore, before dispatch of the orders to the petitioner, if the objections were available on the file, he ought to have considered the same. The manner, in which, the first respondent completed the assessment, is wholly unsustainable and deprecated.

6. For all the above reasons, the writ petitions are allowed, the impugned orders are set aside and the matters are remanded to the first respondent for a fresh consideration. The first respondent shall take into consideration the reply dated 12.3.2014 and the objections dated 23.11.2017 sent by registered post, received by the office of the first respondent on 26.12.2017, afford an opportunity of personal hearing to the petitioner and redo the assessment in accordance with law. No costs. Consequently, the connected WMPs are closed.

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-s/d-
Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

RS

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To
1.The Assistant Commissioner (ST), Salem Town North Assessment Circle,
Hasthampatty, Salem-7.

2.The Commissioner of Commercial Taxes, Ezhilagam, Chennai-5.

+5 Ccs to Mrs. Lakshmi Sriram, Advocate sr 4181.

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GMR(CO)
SP(23/01/2018)

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