IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2018

CORAM

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

WRIT PETITION NOS. 11451 & 11452 OF 2018
AND
W.M.P.NOS.13366 TO 13369 OF 2018

M/s.Sri Ragavendra Communication,
represented by its Proprietor,
S.Kamaraj
No.7, Natesan Street, Mannargudi,
Tiruvarur District. ..Petitioner in both W.Ps.

Vs.

The Commercial Tax Officer,
Mannargudi Assessment Circle,
Mannargudi,
Tiruvarur District. ..Respondent in both W.Ps.

Prayer in both W.Ps.

Writ Petitions filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari, call for the records of the Respondent in TIN No.33503862211/2011-2012 and 2012-2013, dated 20.03.2018 and quash the same as illegal, arbitrary and against the principles of natural justice.

(In both W.Ps.)
For Petitioner : Mr.K.Soundararajan

For Respondent : Mrs.G.Dhanamadhri
Government Advocate

COMMON O R D E R

Heard Mr.K.Soundararajan, the learned counsel appearing for the petitioner and Mrs.G.Dhanamadhri, the learned Government Advocate accepting notice on behalf of the respondent. With consent on either side, the Writ Petitions are taken up for disposal.

2. The petitioner, who is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (TNVAT Act, for brevity) has filed the Writ Petitions, challenging the assessment orders, dated 20.03.2018, passed by the respondent under the provision of TNVAT Act for the assessment years 2011-2012 and 2012-13.

3. The grounds of challenge are two fold. Firstly, in the impugned orders, there are findings rendered by the Authority, which were never pointed out in the show cause notice, dated 15.02.2018. The second ground raised by the petitioner is that opportunity of personal hearing was not granted.

4. With regard to the first issue, I find that there was no direction to the petitioner to produce the original purchase bills nor the goods movement details and the mode of money transaction in the show cause notice, dated 15.02.2018. Therefore, if the respondent wanted those details, he could have very well summoned the same from the petitioner. Secondly, without affording opportunity of personal hearing, the assessment could not have been finalized, which is mandatory requirement.

5. Apart from the above two grounds, the learned counsel for the petitioner points out that there is discrepancy in the figures mentioned in the dealer statement in the impugned order with regard to verification of the purchases as per the other end dealer Annexure-II details taken from intra-net website with P& L account statement filed by the petitioner for the relevant assessment year. This discrepancy also could have been verified, if the Assessing Officer had granted opportunity of personal hearing. Thus, for the above reason, this Court is inclined to issue appropriate direction to the petitioner, so as to be enable the respondent to redo the assessment in accordance with law.

6. In the result, the Writ Petition is disposed of, by directing the petitioner to treat the impugned assessment orders as show cause notices and submit their further objections and file all the documents as sought for by the respondent within a period of 15 days from the date of receipt of a copy of this order. On receipt of the objections given by the petitioner, the respondent should fix a date for personal hearing and hear the petitioner in person and redo the assessment in accordance

with law. During the course of personal hearing, clarification, if any, is required by the respondent, the same shall be sought for from the petitioner and and the petitioner shall clarify all points, which have been raised by the respondent. Till assessments are redone, 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, connected Writ Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

The Commercial Tax Officer,
Mannargudi Assessment Circle,
Mannargudi,
Tiruvarur District.

+2cc to Mr.K.Soundararajan, Advocate sr.no.32378
+1cc to Special Government Pleader(Taxes), sr.no.32684

Writ Petition Nos. 11451&11452 of 2018

nr 04/06/2018