IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2018

CORAM

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

WRIT PETITION NOS.11454 TO 11457 OF 2018
&
W.M.P. NOS. 13370 TO 13373 OF 2018

M/s. J.Subbuswami Ayyar & Sons,
Represented by its Partner
V.S.Sankar,
75/3, Old. No.103, Lotus Tower,
Ramakrishna Road,
Salem-7. ..Petitioner in all W.Ps.

Vs.

The Assistant Commissioner (CT),
Salem Town North Assessment Circle,
Salem. ..Respondent in all W.Ps.

Prayer in all W.Ps.

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus, call for the records of the respondent in his proceeding in TIN 33982680002/2011-2012, 2012-2013, 2013-2014 and 2016-17, and quash the impugned order dated 16.11.2016 passed therein and further, to direct the respondent to furnish the records and affording personal hearing to the petitioner.

(Appearance in all W.Ps.)

For Petitioner : Mr.B.Raveendran

For Respondent: Mrs.G.Dhana Madhri
Government Advocate

C O M M O N O R D E R

Heard Mr.B.Raveendran, the learned counsel appearing for the petitioner and Mrs.G.Dhanamadiri, learned Government Advocate accepting notice on behalf of the respondent. With consent on either side, these 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) and Central Sales Tax Act, 1956 (CST Act, for brevity) has filed these Writ Petitions, challenging the orders of assessment, dated 16.11.2016, passed under the provision of TNVAT Act, for the assessment years 2011-2012, 2012-2013, 2013-2014 and 2016-17.

3. The impugned assessment orders dated 16.11.2016 are liable to be set aside on the ground that they are in violation of principles of natural justice, because, the show cause notices were issued much after the impugned assessment orders. As could be seen from the material papers filed in support of the Writ Petitions, the show cause notices for the relevant assessment year were issued on 29.11.2016, whereas, the assessments were finalized on 16.11.2016. This amounts to putting the cart before the horse. Unfortunately, the petitioner did not point out this grave error in the Petitions filed under Section 84 of the TNVAT, 2006, dated 03.05.2017. In any event, this inherent defect cannot be cured. Therefore, this Court is inclined to interfere with the impugned orders, dated 16.11.2016.

4. Accordingly, the Writ Petitions are allowed, the impugned assessment orders dated 16.11.2016 are set aside and the petitioner is directed to submit their reply to the show cause notices dated 29.11.2016 within 15 days from the date of receipt of a copy of this Order. If any records are required, it is open to the petitioner to seek for copies of the same from the respondent, after which, a comprehensive reply can be filed and on receipt of the comprehensive reply, the respondent is directed to fix a date for personal hearing and hear authorized representative of the petitioner and finalize the assessment in accordance with law. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

TO

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

+1cc to Mr.B.Raveendran, Advocate sr.no.32528
+1cc to Special Government Pleader(Taxes), Sr.32685

Writ Petition Nos.11454 to 11457 of 2018

sj(co)
nr 07/06/2018