IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.01.2018
Coram

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

Writ Petition Nos.29754 to 29756 of 2017
and
W.M.P.No.32097 to 32099 of 2017

K. S. Gunasekaran
Managing Partner,
Sri Sellandiyamman Electrical,
199, Kunnathur Road,
Perundurai - 638052,
Erode District, Tamil Nadu. ...Petitioner

Vs.

The Assistant Commissioner
(Commercial Taxes),
Perundurai Assessment Circle,
Perundurai- 638052,
Erode District, Tamil Nadu. ...Respondent

Prayer in W.P.No.29754 of 2017

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for records of the respondent, dated 24.08.2017, pursuant to the assessment year 2013-14, in TIN : 33382924287/2013-14, and to quash the same and to direct the respondent to give him the proper opportunity to file the petitioner's objections on the assessment for the year 2013-14, and to direct the respondent to pass an appropriate order based on the petitioner's submissions if required further in connection with the assessment proceedings for the year 2013-14.

Prayer in W.P.No.29755 of 2017

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for records of the respondent, dated 13.10.2017, pursuant to the assessment year 2011-12, in TIN : 33382924287/A3 2011-12, and to quash the same and to direct the respondent to pass an order based on the submissions already made by the petitioner and also allowing the petitioner to produce further records and documents in connection with the assessment proceedings for the year 2011-12, and to direct the respondent to pass appropriate order.

Prayer in W.P.No.29756 of 2017

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for records of the respondent, dated 24.08.2017, pursuant to the assessment year 2012-13, in TIN : 33382924287/2012-13, and to quash the same and to direct the respondent to pass an order based on the submissions already made by the petitioner and also allowing the petitioner to produce further records and documents in connection with the assessment proceedings for the year 2012-13, and to direct the respondent to pass appropriate order.

For Petitioner : Mr. T. Sundar Rajan

For Respondent : Mr.S.Kanmani Annamalai
Additional Government Pleader

COMMON ORDER

Heard Mr. T. Sundar Rajan, the learned counsel appearing for the petitioner and Mr.S.Kanmani Annamalai, the learned Additional Government Pleader, accepting notice on behalf of the respondent. With the consent on either side, and since counter affidavit has been filed in these Writ Petitions, the same are taken up for disposal.

2. The impugned orders have been passed, rejecting the revised returns filed by the petitioner for the relevant assessment years, solely for the reason that the revised returns were filed manually.

3. The respondent refers to Rule 7 (9) of the Tamil Nadu Value Added Tax Rules, 2007, which prescribes time limit of six months for filing revised returns. The respondent, after referring to the said Rule, accepts the fact that the petitioner's revised returns has been filed within the period of six months, but seeks to ignore the same on the ground that, it was filed manually.

4. I find that there is no specific statutory prohibition, in filing the manual monthly returns, especially, when the petitioner has stated that, they were unable to upload the revised returns through e-filing. In any event, the respondent should ensure that the correct rate of tax is collected from the petitioner, for which purpose, technicalities can be kept aside.

5. Thus, taking note of the fact that the respondent has accepted the fact that the revised returns was filed within the period of limitation prescribed under Rule 7 (9) of the Tamil Nadu Value Added Tax Rules, 2007, this Court is inclined to

direct the respondent to redo the assessment, by affording an opportunity of personal hearing to the authorized representative of the petitioner.

6. Accordingly, these Writ Petitions are allowed, the impugned orders are set aside, and the matter is remanded to the respondent for fresh consideration, who shall take note of the revised returns for all the assessment years, afford an opportunity of personal hearing to the authorized representative of the petitioner and redo the assessment in accordance with law. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

sd

To

The Assistant Commissioner
(Commercial Taxes),
Perundurai Assessment Circle,
Perundurai- 638052,
Erode District, Tamil Nadu.

+ 3 ccs to MR. T. Sundararajan, Advocate Sr.84,85,86

+ 1 cc to Special Government Pleader Sr.176

Writ Petition Nos.29754
to 29756 of 2017

(CS-V)
EU(01/02/2018)