IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.6.2018

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WRIT PETITION NOS.13902 TO 13907 & 13915 TO 13920 OF 2018 &
WMP.NOS.16436 TO 16441 & 16448 TO 16453 OF 2018

Tvl.Pioneer Inc., rep.by
Mr.G.Sundaresan, Accounts
Manager, Authorized Signatory ...Petitioner

Vs

The Assistant Commissioner (CT),
Aminjikarai Assessment Circle,
No.59, Taylors Road, Dowlath
Tower, 7th Floor, Chennai-10. ...Respondent

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorarified Mandamus to call for the records on the file of the respondent respectively in TIN/33251023498/February 2014 dated 25.5.2015, TIN/33251023498/September 2013 dated 06.4.2016, TIN/33251023498/November 2015 dated 13.10.2016, TIN/33251023498/March 2012 dated 06.4.2016, TIN/33251023498/August 2015 dated 18.8.2016, TIN/33251023498/December 2012 dated 25.5.2015, TIN/33251023498/April 2014 dated 25.5.2015, TIN/33251023498/October 2012 dated 25.5.2015, TIN/33251023498/November 2012 dated 25.5.2015, TIN/33251023498/January 2013 dated 06.4.2016, TIN/33251023498/June 2013 dated 06.4.2016 and TIN/33251023498/August 2013 dated 06.4.2016, quash the same and direct the respondent to exercise power under Section 81 of the Tamil Nadu Value Added Tax Act and allow the claim of input tax credit on the strength of the purchase bills issued by its vendors and other documents objections filed by the petitioner in support of its claim and redo the assessments as per the provisions of the Tamil Nadu Value Added Tax Act after giving a fair and reasonable opportunity of personal hearing.

For Petitioner : Mr.S.N.Kirubanandam
For Respondent : Mr.M.Hariharan, AGP

COMMON ORDER

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

2. The petitioner has filed these writ petitions challenging the provisional assessment orders passed by the respondent.

3. The settled legal position is that the respondent has no jurisdiction to pass the provisional assessment orders after the end of the assessment year. In this regard, it is beneficial to refer to the decision of the Hon'ble Division Bench of this Court in the case of State of Tamil Nadu Vs. Wander [reported in (1990) 79 STC 421]. Thus, the impugned provisional assessment orders are to be held to be unsustainable in law and accordingly, they are liable to be set aside.

4. The learned counsel for the petitioner submits that as against only a few of the provisional assessment orders, the petitioner filed has writ petitions wherever the tax liability is high and in respect of other orders, the petitioner filed petitions under Section 84 of the Tamil Nadu Value Added Tax Act, 2006 for rectifying the orders.

5. Considering the legal position, the respondent should revise all the orders and if the respondent has already passed provisional assessment orders for other months after the completion of the assessment years, then those orders shall also be revised even if the petitioner has not filed any application. The Assessing Officer has suo motu powers to invoke the provisions of Section 84 of the said Act.

6. In the light of the above, the writ petitions are allowed, the impugned orders are set aside with a direction to the respondent to finalize the assessments for the entire year after issuing a show cause notice to the petitioner, afford an opportunity to file objections, grant an opportunity of personal hearing and thereafter pass a speaking order on merits and in accordance with law. With regard to the provisional assessment orders, which are not the subject matter of challenge before

this Court, the respondent is directed to take note of the said legal position and and pass revised orders for the entire year in respect of those orders as well. No costs. Consequently, the connected WMPs are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

RS

To

The Assistant Commissioner (CT),
Aminjikarai Assessment Circle,
No.59, Taylors Road, Dowlath Tower,
7th Floor, Chennai-10.

+2ccS to Mr.S.N.Kirubanandam, Advocate, S.R.No.36334 & 36335
+2ccS to the Special Government Pleader, S.R.No.36741 & 36743

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13915 to 13920 of 2018 &
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& 16448 to 16453 of 2018

SVN(CO)
CS/27/06/18