IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.07.2018

CORAM :

The Hon'ble MR.JUSTICE T.S.SIVAGNANAM

W.P. Nos.14264 to 14268 of 2018
and W.M.P.Nos.16852 to 16856 of 2018

Tvl.S.S.Associates,
Rep. by its Managing Partner,
R.Saravanan. .. Petitioner in all WPs.

-vs-

The Commercial Tax Officer,
Now Designated as State Tax Officer,
Arisipalayam Assessment Circle,
Salem. .. Respondents in all WPs.

Petitions filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorari to call for the records on the file of the respondent in TIN:33592842158/2011-12, 33592842158/2012-13, 33592842158/2013-14, 33592842158/2014-15 and 33592842158/2015-16 dated 27.04.2018 and quash the same as being without jurisdiction and authority of law and contrary to the principles of natural justice.

For Petitioner : Mr.R.Senniappan

For Respondent : M/s.G.Dhanamadhri
Government Advocate

O R D E R

Heard Mr.R.Senniappan, learned counsel appearing for the petitioner and M/s.G.Dhanamadhri, learned Government Advocate appearing for the respondent.

2.The petitioner has filed these writ petitions challenging the assessment orders passed under the provisions of the Tamil Nadu Value Added Tax Act, 2006, on the ground that none of the objections given by the petitioner were considered in a proper perspective and the returns which were filed were not taken into consideration.

3.The respondent has given parawise comments to the learned Government Pleader vide letter dated 11.07.2018. In the said parawise comments, the respondent has stated that adequate opportunities were given and all the records were perused. On a perusal of the impugned assessment orders, I find that there are two reasons assigned by the Assessing Officer for not accepting the reply given by the petitioner to the revision notice dated 23.12.2016. The two reasons being that the petitioner has not given any details with regard to the registered purchasers and the second reason being that they have not filed any documentary evidence to prove the genuineness that the difference was on account of the claim of input tax credit being included in the Income Tax returns.

4.In my considered view, the issues could be very well sorted out between the petitioner and the respondent in a personal hearing, which should be an effective personal hearing. This is required to be done so, because the correct rate of tax has to be collected from the petitioner. Therefore, if the petitioner had filed the copies of the returns, as represented before this Court, the respondent can verify the same. For such reason, this Court is of the view that the assessments could be redone by the respondent.

5.For the above reason, the writ petitions are disposed of directing the petitioner to treat the impugned proceedings as show cause notices and submit their objections within a period of fifteen (15) days from the date of receipt of a copy of this order. On receipt of the objections, the respondent shall afford an opportunity of personal hearing, consider all the documents produced by the petitioner and after discussing the matter thoroughly, re-do the assessment in accordance with law. The respondent should take note of the payment of tax which has been made by the petitioner during the course of inspection, which according to the petitioner has not been given credit to. No costs. Consequently, W.M.P.Nos.16852 to 16856 of 2018 are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

sra

To

The Commercial Tax Officer,
Now Designated as State Tax Officer,
Arisipalayam Assessment Circle,
Salem.

+1cc to Special Government Pleader Sr.No.46215
+1cc to MR.R.Senniappan, Advocate SR.No.46244

sm:20.7.2018

W.P.Nos.14264 to 14268 of 2018