IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2018

CORAM

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

W.P.Nos.14455 to 14459 of 2018
and
W.M.P.Nos.17068 to 17072 of 2018

Tvl.Roshan
Rep.by Partner Thiru C.M.Abdul Mazeeth,
No.33, South Usman Road,
T.Nagar, Chennai 600 017. ... Petitioner in all W.P.Nos.

Vs.

1. The State of Tamil Nadu
   Rep.by it's Secretary to Government
   Department of Commercial Taxes,
   Fort St.George, Beach Road,
   Chennai - 600 009.

2. The Commissioner of Commercial Taxes,
   2nd Floor, Elilagam, Chepauk,
   Chennai - 600 005.

3. The Joint Commissioner (C.T)
   Enforcement Wing -1,
   C.T.Buildings, Greams Road,
   Chennai - 600 005.

4. The Commercial Tax Officer
   Enforcement Wing Group IV,
   C.T.Building, Greams Road,
   Chennai 600 005.

5. The Commercial Tax Officer,
   Nandanam Assessment Circle,
   Chennai - 600 028. ... Respondents in All W.P.Nos.

Common Prayer : Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relating to the proceeding of the TIN 33331582174/2012-13, TIN 33331582174/2013-14, TIN 33331582174/2014-15, TIN 33331582174/2015-16 and TIN 33331582174/2016-17 dt 30.04.2018 received by the petitioner on 2.5.2018 and quash the same.

For Petitioner : Mr.Md.Ibrahim Ali
in All W.P.Nos.

For Respondents : Ms.G.Dhana Madhri
Government Advocate

O R D E R

Heard Md.Ibrahim Ali, learned Counsel for the petitioner and Mrs.G.Dhana Mathri, learned Government Advocate appearing for the respondents.

2. The petitioner, who is a registered dealer on the file of the respondents under the provisions of Tamil Nadu Value Added Tax Act, 2006, is aggrieved by the impugned Assessment Orders under the said Act for the Assessment years 2012-13 to 2016-17.

3. I have perused the impugned order and I find that the objection raised by the dealer has been rejected on the ground that the dealer has not produced any details before the Enforcement Officer. This should not have been the approach of the Assessing Officer. Since the petitioner is entitled to submit their objections to the revision notice, which was issued on 28.09.2017, after revision notice was issued and objections were filed, the fifth respondent is expected to consider the objections independently and not being influenced by any direction issued by the superior officers. Furthermore, the respondent cannot reject the objection as an afterthought. If the respondent was of the opinion that records should be produced by the dealer, an opportunity could have been granted to the petitioner. Thus, I find that the impugned orders are in violation of principles of natural justice.

Accordingly, the writ petitions are disposed of by directing the writ petitioner to file further objection within a period of 10 days from the date of receipt of a copy of this order and on receipt of the objections, the respondent shall afford an opportunity of personal hearing, during which time the petitioner should produce documents and records to substantiate their claim and if the same are produced, the respondent shall consider the documents and records and pass a speaking order on merits and in accordance with law. Till the above exercise is completed, no coercive action shall be iniated against the petitioner. No costs. Consequently, the connected miscellaneous petitions are closed.

s/d-
Assistant Registrar(CS VII)

True Copy

Sub-Assistant Registrar

To

1. The Secretary to Government
   Department of Commercial Taxes,
   Fort St.George, Beach Road,
   Chennai - 600 009.

2. The Commissioner of Commercial Taxes,
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+5 Ccs to Mr. Md. Ibrahim Ali, Advocate sr 39215.

W.P.Nos.14455 to 14459 of 2018
and
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KJI(CO)
SP(29/06/2018)