IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2018

CORAM

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

W.P.Nos.15110 to 15115 of 2018

&

W.M.P.Nos.17867 to 17872 of 2018

Tvl.Maharashtra Traders
Rep.by its Proprietor Mr.K.Parvez Ahmed
No.2, 5th Cross
Vathi Nagar, Ambur. ... Petitioner in all W.P.Nos.

Vs.

The Assistant Commissioner (ST),
Ambur. ... Respondent in all W.P.Nos.

Common Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari to call for the records of the order of the Respondent dated 30.04.2018 in TIN: 33024262891/2012-13, 33024262891/2013-14, 33024262891/2014-15, 33024262891/2015-16, 33024262891/2016-17 and 33024262891/2017-18 and quash the same.

For Petitioner : Mr.Adithya Reddy
in all W.P.Nos.

For Respondent : Mrs.G.Dhana Madhri
Government Advocate
in all W.P.Nos.

O R D E R

Heard Mr.Adithya Reddy, learned counsel for the petitioner and Ms.G.Dhana Mathri, learned Government Advocate, accepting notice on behalf of the respondent.

2.The petitioner is aggrieved by the impugned Assessment Orders passed under the provisions of Tamil Nadu Value Added Tax Act for the Assessment years 2012-13 to 2017-18. In response to the revision notices dated 12.04.2018, the petitioner submitted a reply dated 19.04.2018.

3.I have perused the said reply and find that the reply does not contain any details.

4.The learned counsel for the petitioner would submit that the petitioner was questioning the jurisdiction of the VAT audit on the ground that the authorization was issued by the Joint Commissioner who was incompetent to do so. The same ground was also canvassed before this Court by the learned counsel for the petitioner.

5. However, I am not inclined to accept the said submission in the light of the Empress Audio case decided on 20.06.2018 in W.P.No.14213 of 2018 and batch. Therefore, to that extent, the impugned Assessment orders are sustainable and it is held that the authorization granted to the VAT audit is legally sustainable. Moving on to the next issue with regard to petitioner not reporting the turnover, which was noticed by the Enforcement Wing, when they conducted an inspection in the petitioner's place of business on 05.05.2017, 16.05.2017, 21.06.2017 and 06.07.2017, learned counsel for the petitioner submits that the respondent did not fix a specific date for personal hearing. Be that as it may, the petitioner is ready and willing to produce all the documents before the Authority, as they are in possession of the documents.

6. The learned Government Advocate appearing for the respondent submitted that the Assessment Officer has granted an opportunity of personal hearing even at the time of issuing the revision notice dated 28.02.2018, but the petitioner did not utilize the opportunity. In my view, the opportunity of personal hearing should be granted after the dealer files objection to the revision notice. This is so because, there would be cases where after the revision notice is issued and the dealer files objection, the Assessing Officer may be satisfied with the reply given by the dealer and drop the proposal. Therefore, before issuing a notice for personal hearing, the Assessing Officer should apply his mind to the reply sent by the dealer as to whether the allegations in the show-cause notice have been properly answered and if not satisfied, then a date can be fixed for personal hearing.

7. Considering the peculiar facts and circumstances of the case and taking note of the submission made by the learned counsel for the petitioner that the petitioner is in possession of all the documents, this Court is inclined to give one opportunity to the petitioner.

In the result, the writ petitions are disposed of by directing the petitioner to treat the impugned Assessment Orders as show-cause notices and submit their detailed and comprehensive reply within a period of one week from the date of receipt of a copy of this order and on receipt of the reply, the respondent shall go through the same, fix a date of personal hearing, on which date the petitioner should appear without seeking for any adjournment. After hearing the authorized representative of the petitioner, the respondent shall pass a fresh orders on merits and in accordance with law within a period of two weeks from the date on which the personal hearing is concluded. Till then no coercive action shall be initiated against the petitioner. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

gpa

To

The Assistant Commissioner (ST),
Ambur.

+1cc to Mr.ADITHYA REDDY, Advocate, S.R.No.39377
+1cc to the Government Pleader, S.R.No. 39693

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AK(CO)
TR(28/06/2018)