IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2018

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.15227 and 15228 of 2018
and
W.M.P.Nos.18052 & 18053 of 2018

M/s.Sambandham Electricals,
Rep. by the Proprietor,
No.143, Gandhi Road,
Cheyyar-604 407,
Thiruvannamalai District. ... Petitioner in both W.Ps.

vs.

State Tax Officer (FAC),
Vandavasi Assessment Circle,
Vandavasi, Thiruvannamalai District. ... Respondent in both W.Ps.

Petitions filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records of the respondent and to quash the proceedings in TIN 33274602011/2013-14 and 2014-15 dated 28.03.2018 as illegal and against the principles of natural justice and to direct the respondent to pass fresh orders after providing an opportunity of personal hearing to the petitioner.

For Petitioner (in both W.Ps.) : Mr.C.Baktha Siromoni

For Respondent (in both W.Ps.) : Mr.M.Hariharan, Additional Government Pleader

COMMON ORDER

Heard Mr.C.Baktha Siromoni, learned counsel for the petitioner and Mr.M.Hariharan, learned Additional Government Pleader for the respondent. With consent on either side, these writ petitions are taken up for final disposal.

2. The petitioner is aggrieved by the impugned assessment order on several grounds. Firstly on the ground that it is in violation of principles of natural justice, the documents produced by the petitioner along with the objections were not

considered and no opportunity of personal hearing was granted.

3. On a perusal of the impugned orders, it is seen that the respondent has stated that the petitioner has not produced any documents to support their stand. However, the petitioner asserts that the documents were given along with explanation dated 07.02.2018 and acknowledged by the respondent on 13.02.2018. Pointing out all these defects, the petitioner has filed a petition under Section 84 of the Tamil Nadu Value Added Tax Act, 2006 (hereinafter referred to as "the TNVAT Act") vide petition dated 08.05.2018. The said petition is now pending before the Authority.

4. In my considered view, the respondent should have afforded an opportunity of personal hearing, especially when the reason for revising the turnover is on account of verification of the purchase from Annexure-II of the sellers with that of the purchase recorded in the return filed by the petitioner. In fact, since there was no Rule or Regulation in place to guide the Assessing Officers, as to how they have to take a decision in "mis-match" cases, the Court had issued directions in the nature of guidelines in the case of JKM Graphics Solutions Private Limited vs. Commercial Tax Officer reported in (2017) 99 VST 343 (Madras). Therefore, the respondent should have borne in mind the directions issued in the said order and have proceeded with the assessment. If the respondent has taken note of the decision, obviously, she should have given an opportunity of personal hearing.

5. Thus, for the above reasons, this Court is of the view that there are errors apparent on the face of the order warranting exercise of jurisdiction under Section 84 of the TNVAT Act.

6. Accordingly, these writ petitions are disposed of by directing the respondent to consider the petitioner's petition filed under Section 84 of the TNVAT Act dated 08.05.2018, afford an opportunity of personal hearing, go through the documents filed by the petitioner and if any details are sought for by the petitioner, the same shall be furnished and after giving an effective opportunity of personal hearing, redo the assessment in accordance with law. Till the above direction is completed, no coercive action shall be initiated against the petitioner. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True copy//

Sub Assistant Registrar

abr

To

State Tax Officer (FAC),
Vandavasi Assessment Circle,
Vandavasi, Thiruvannamalai District.

+1cc to Mr.C.Baktha Sironmani, Advocate SR.No.39512
+1cc to Government Pleader SR.No.39998

W.P.Nos.15227 and 15228 of 2018

VD(CO)
GN(09/07/2018)