In the High Court of Judicature at Madras

Dated : 08.1.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.154 to 156 of 2018 & WMP.No.214 to 216 of 2018

Tvl.Sri Velu Agencies, rep.by its
Proprietor Mr.R.Sithananantham
...Petitioner in all the petitioners

Vs

The State Tax officer, Villupuram I
Assessment Circle, Collector Office
Complex, Villupuram, Villupuram
District. ...Respondent in all the petitions

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorari to call for the records on the files of the respondent respectively in TIN/33264683545/2014-15, TIN/33264683545/ 2013-14 and TIN/33264683545/2015-16, all dated 30.11.2017 and quash the same as being illegal, invalid, without jurisdiction, violated the principles of natural justice and contrary to the law.

For Petitioner : Mr.D.Vijayakumar

For Respondent : Ms.G.Dhana Madhri, GA

COMMON ORDER

Ms.G.Dhana Madhri, learned Government Advocate accepts notice for the respondent. Heard both. By consent, the writ petitions are taken up for joint disposal.

2. The main reason to take up the writ petitions for final disposal even at the admission stage is that the assessments have been completed in gross violation of the directions issued by this Court in the case of JKM Graphics Solutions Private Limited Vs. CTO, Vepery Assessment Circle [reported in (2017) 99 VST 343].

3. The petitioner is a registered dealer on the file of the

respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006. In these writ petitions, the petitioner has challenged the orders of assessment passed by the respondent respectively for the years 2014-15, 2013-14 and 2015-16.

4. The issue, which falls for consideration for the assessment years 2014-15 and 2015-16, is identical on the allegation of purchase omission and mismatch between Annexure I and Annexure II. For the assessment year 2013-14, only one issue arises for consideration namely purchase omission.

5. It is not clear as to why the Assessing Officer had been repeatedly issuing show cause notices to the dealer. For example, if the assessment pertaining to the year 2014-15 is seen, the respondent issued three notices to the petitioner dated 30.6.2016, 30.3.2017 and 30.10.2017. The petitioner has been prompt and had submitted their objections for all the three notices. In fact, along with their objections dated 29.8.2016, the petitioner enclosed 374 pages of documents to establish that they scrupulously accounted for all the purchases and sales made during the relevant assessment year.

6. The petitioner further stated that they had not omitted any single purchase bill and that they also explained to the officials of the Enforcement Wing, who inspected the petitioner's place of business on 11.12.2015 and 15.12.2015. In the objections dated 09.5.2017, the petitioner specifically referred to the decision of this Court in the decision in JKM Graphics Solutions Private Limited. In spite of pointing out both the factual and legal positions, the respondent merely stated that the petitioner had not accounted for the purchases in Annexure I of their monthly return.

7. The learned counsel for the petitioner submits that one of the major dealers, with whom the petitioner had transactions namely M/s.Sitaraman & Co., had given a statement containing bill-wise details of the sales effected to the petitioner for the period from 01.3.2014 to 04.1.2016 and in spite of that, the respondent has not undertaken an exercise to verify the correctness of the stand taken by the petitioner.

8. This Court, in the decision in JKM Graphics Solutions Private Limited, pointed out that a thorough enquiry has to be conducted in consultation with the Assessing Officers of the other end dealers, for which purpose, the Commissioner of Commercial Taxes has been directed to empower the Assessing Officers to seek information from the other circles. It is stated that one of the dealers, with whom, the petitioner had purchase transactions, is registered with the respondent as a dealer. Therefore, this Court is at a loss to understand as to why the respondent did not undertake such an exercise before holding the petitioner liable for the alleged unaccounted

purchases and sales and reversing the input tax credit. This Court is satisfied that the impugned assessment orders are in gross violation of the directions issued by this Court in the decision in JKM Graphics Solutions Private Limited and that the same call for interference.

9. Accordingly, the writ petitions are allowed, the impugned orders are set aside and the matters are remitted to the respondent for a fresh consideration. The respondent is directed to conduct a thorough enquiry, obtain information from Assessing Officers pertaining to the other end dealers, afford an opportunity of personal hearing to the petitioner to explain discrepancies, if any and after being fully satisfied, redo the assessment in accordance with law. No costs. Consequently, the connected WMPs are closed.

Sd/-
Assistant Registrar(CS IX)

//True copy//

Sub Assistant Registrar

To

The State Tax officer,
Villupuram I Assessment Circle,
Collector Office
Complex, Villupuram,
Villupuram District.

+2cc to Mr.D.Vijaya Kumar, Advocate SR.No.1079
+1cc to Special Government Pleader(Taxes) SR.No.1388

WP.Nos.154 to 156/2018&
WMP.Nos.214 to 216/2018

VGI(CO)
GN(02/02/2018)