In the High Court of Judicature at Madras

Dated : 27.6.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.15650 to 15652 of 2018 &
WMP.Nos.18585 to 18587 of 2018

Tvl.Vivek Traders, rep.by its
Proprietor Thiru P.Jithender Tatia ...Petitioner

Vs

The Assistant Commissioner (ST),
Choolai Assessment Circle, II Floor,
Palaniappa Building, No.10,
Greams Road, Chennai-6. ...Respondent

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorari to call for the records of the first respondent in TIN/33130500540/2013-14, TIN/33130500540/2014-15 and TIN/33130500540/2015-16, all dated 09.2.2018 and quash the same as arbitrary and illegal.

For Petitioner : Mr.S.Ramanan
For Respondent : Mr.Master Ganesh, GA

COMMON ORDER

Mr.Master Ganesh, learned Government Advocate accepts notice for the respondent. Heard both. By consent, the writ petitions are taken up for joint disposal.

2. The petitioner is aggrieved by the orders of assessment dated 09.2.2018 for the years 2013-14, 2014-15 and 2015-16.

3. Two issues arise for consideration in the instant case. The first issue pertains to invoice-wise mismatch details as culled out from the official website of the Department. The second issue pertains to levy of penalty under Sections 27(3) and 27(4) of the Tamil Nadu Value Added Tax Act, 2006.

4. So far as the levy of penalty is concerned, the learned counsel for the petitioner would submit that the petitioner may be granted an opportunity to file appeals before the Appellate Authority and that reasonable time may be granted to file the appeals.

5. With regard to the mismatch issue, this Court finds that at the time of personal hearing, the petitioner sought for details, based on which, the turnover was proposed to be

revised. An opportunity of personal hearing was granted on 10.11.2017, the request made by the petitioner was acceded to and the respondent forwarded the details on 22.11.2017. According to the petitioner, the revision of assessment is for three years and more than 500 bills are involved. Therefore, there was a delay in submitting the further objections on the mismatch issue. However, the respondent passed the impugned orders confirming the proposal. Considering the fact that the mismatch issue has to be enquired into, this Court is inclined to grant one more opportunity to the petitioner to go before the Assessing Officer.

6. For the above reasons, the writ petitions are disposed of with the following directions :

(i) The petitioner is granted 15 days' time from the date of receipt of a copy of this order to submit their objections with regard to mismatch issue along with requisite documents;

(ii) On receipt of the objections along with requisite documents, the respondent shall afford an opportunity of personal hearing to the petitioner and redo the assessments on merits and in accordance with law;

(iii) The petitioner is granted 30 days' time from the date of receipt of a copy of this order to file the appeals as against the levy of penalty under Sections 27(3) and 27(4) of the said Act before the Deputy Commissioner (CT), Chennai (Central), Chennai-6; and

(iv) If the appeals are filed within such time, the Appellate Authority shall entertain the same without rejecting on the ground of limitation.

No costs. Consequently, the connected WMPs are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To

1.The Assistant Commissioner (ST), Choolai Assessment Circle, II Floor,
Palaniappa Building, No.10, Greams Road, Chennai-6.

2.Deputy Commissioner(CT)
Chennai Central,
Chennai-06

+1cc to Special Government Pleader(Taxes), sr.no.41569
+3cc to Mr.S.Ramanan, Advocate sr.no.40628,40629,40630

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nr 06/07/2018