IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.02.2018

Coram

The Hon'ble Mr.Justice T.S.Sivagnanam

Writ Petition Nos.1642 and 1643 of 2018
and
W.M.P.Nos.2056 and 2057 of 2018

M/s. BBC City Park,
rep. by its Managing Partner,
...Petitioner in both W.Ps.

Vs.

The Assistant Commissioner (CT) (FAC)
T. Nagar Assessment Circle,
Chennai - 600 035. ...Respondent in both W.Ps.

Prayer in both W.Ps.

Writ Petitions, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for records of the respondent, in Rc/909/2015/A4 (2008-09 and 2009-10 respectively) unregistered period dated 14.12.2017 and to quash the same.

For Petitioner in both W.Ps. : Mr.S. Raveekumar

For Respondent in both W.Ps. : Mrs. G. Dhanamadhri Government Advocate

COMMON ORDER

Heard Mr.S.Raveekumar, the learned counsel appearing for the petitioner and Mrs.G.Dhanamadhri, the learned Government Advocate for the respondent.

2. The petitioner, who is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (TNVAT Act) has filed these Writ Petitions, challenging the show cause notices issued to them by the respondent, dated 14.12.2017, for the assessment years 2008-09 and 2009-10.

3. On a reading of the show cause notice, this Court found that it does not contain specific allegations and there are vague and unnecessary averments, which are to be eschewed. For this reason, the learned Government Advocate was directed to get instructions in the matter, and she got specific

instructions from the Assessing Officer and she produced a draft amended notice, and stated that only a draft show cause notice was issued and proper show cause notice is yet to be issued to the petitioner. However, I am not inclined to accept the stand taken by the respondent. I wish to point out that the legal position that the show cause notice is nothing but a chargememo and it should contain specific and sharp-pointed allegation and it should not be vague and ambiguous. The noticee should be given proper opportunity to answer the allegation against him, for which purpose, the allegation are required to be precise and to the point. Unnecessary reference to the facts, which are not germane to the issue should be avoided and with this principle in mind, the respondent is directed to issue fresh notice to the petitioner.

4. For the above reasons, both the Writ Petitions are allowed, the impugned orders are set aside and the respondent is directed to issue fresh notice to the petitioner bearing in mind the aforesaid legal principle. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

sd
To
The Assistant Commissioner (CT) (FAC)
T. Nagar Assessment Circle,
Chennai - 600 035.

+2cc to Mr.S.RAVEEKUMAR Advocate, S.R.No. 7683

Writ Petition Nos.1642 and 1643 of 2018

SR(CO)
TR(13/03/2018)