IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2018

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition Nos.13927 to 13930 of 2013
and
M.P.Nos.1 to 1 of 2013

Tvl Gennext Auto World
Rep by its Proprietrix
Tmt. M.K.Sivagammy
New Bye-pass Road, Kakithapattarai Cross
(Near Hyundai Car Show Room)
Vellore. ...Petitioner in all WPs

Vs.

1. The Commissioner of Commercial Taxes
   Ezhilagam, Chepauk
   Chennai - 600 005.

2. The Commercial Tax Officer
   Vellore (North)
   Government Buildings
   Fort Round, Bharathiyar Salai
   Vellore - 632 001.

3. The Commercial Tax Officer
   Enforcement, Group IV
   Government Buildings
   Fort Round, Bharathiyar Salai
   Vellore - 632 001.

4. The Chief Manager
   Indian Overseas Bank
   Vellore-632 004. ... Respondents in all Wps

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, call for the records in respect of the Revised Assessment Order TIN No.33724202075/2007-08, 2008-09, 2009-10 and 2010-11 respectively dated 18.01.2013 passed by the second respondent under the Tamil Nadu Value Added Tax Act, 2006, quash the same.

For Petitioner (in all Wps) : Mr.Adithya Reddy For Mr.S.P.Asokan

For Respondent : Mr.M.Hariharan
(in all WPs) Additional Government Pleader
For R1 to R3

C O M M O N   O R D E R

The petitioner has filed these writ petitions challenging the assessment order dated 18.01.2013 passed under the provisions of the Tamil Nadu Value Added Tax Act, 2006, for the assessment years 2007-2008, 2008-2009, 2009-2010 and 2010-2011.

2.The impugned orders have been challenged on the ground that it is in violation of principles of natural justice and the second respondent, the Assessing Officer has verbatim adopted proposal of the Enforcement Officer. Further, it is submitted that the objection filed by the dealers were not considered and by a single line it has been over ruled.

3.On a perusal of the impugned assessment orders, I find that the Assessing Officer has not given any reason for rejecting the objection and by a single line stated that the objections are over ruled. This is a case, where the Assessing Officer has abdicated his quasi judicial powers. Furthermore, the Assessing Officer cannot be solely guided by the report of the Enforcement Officer and at best, such report can be a starting point for issuance of a revision notice and once the dealer submits his objection, that the Assessing Officer has to independently consider the matter unbiased and uninfluenced. In this regard, usual reference can be made to the judgment of the Hon'ble Division Bench in the case of State of Tamil Nadu Vs. A.N.S.Guptha and Sons reported in [2011] 38 VST 45 (Mad).

4.For the above reasons, the writ petitions are allowed, the impugned assessment orders are set aside and the respondents are directed to redo the assessment orders after affording an opportunity of personal hearing to the authorised representative of the petitioner. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

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To

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+1 CC to Spl. Govt. Pleader sr 9057.
+1 cC to Mr.S.P. Ashokan, Advocate sr 8038.

W. P. Nos.13297 to 13930 of 2013

SP(28/02/2018)