In the High Court of Judicature at Madras

Dated : 18.7.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.18239 to 18241 of 2018 &
WMP.Nos.21546 to 21551 of 2018

Tvl.Universal Systems, rep.by
its Proprietor Mr.T.R.Parthiban ...Petitioner in all WPs

Vs

The Deputy Commercial Tax Officer,
Omalur Assessment Circle,
Omalur. ...Respondent in all WPs

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 in TIN:33413243837/2013-14 dated 29.5.2017, TIN: 33413243837/2014-15 dated 11.5.2017 and TIN: 33413243837/2015-16 dated 29.5.2017 and quash the same as being without jurisdiction, authority of law and contrary to the principles of natural justice.

For Petitioner : Mr.R.Senniappan

For Respondent : Mrs.G.Dhana Madhri, GA

COMMON ORDER

Mrs.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 petitioner is aggrieved by the revision of assessment under the provisions of the Tamil Nadu Value Added Tax Act, 2006 for the years from 2013-14 to 2015-16.

3. Admittedly, the petitioner did not file their objections to the revision notices respectively dated 11.5.2017, 28.11.2016 and 11.5.2017 issued by the respondent. Therefore, the respondent cannot be found fault with for confirming the proposal in the said revision notices in the absence of any written objections. The assessment orders have been passed in the month of May 2017. By now, the petitioner cannot approach the Appellate Authority also for filing appeals.

4. The respondent reopened the assessments on the ground that the turnover for the assessment years 2013-14 and 2014-15 relating to taxable goods exceeded Rs.50 lakhs and therefore, the petitioner is not eligible to file 'K' returns nor eligible to be assessed under Section 3(4)(b) of the said Act though the petitioner had given the turnover exceeding Rs.50 lakhs in Form K returns for the assessment years 2013-14 and 2014-15. Hence, the respondent proposed to reopen the assessments under Section 27(1)(b) of the said Act and ultimately confirmed the proposal for non filing of any objections even for the assessment year 2015-16.

5. The learned counsel for the petitioner submits that one opportunity may be granted to the petitioner to go before the Assessing Officer to file Form I returns.

6. Since the entire assessment has been taken into account at 14.5% instead of 0.5%, this Court is of the considered view that one opportunity can be granted to the petitioner, however, subject to a condition.

7. Accordingly, the writ petitions stand disposed of with a direction to the petitioner to pay 15% of the tax demanded for each of the assessment years within a period of 30 days from the date of receipt of a copy of this order. If the said condition is complied with, the petitioner is entitled to treat the impugned orders as show cause notices and submit their objections within a period of two weeks therefrom. Along with the objections, the petitioner is permitted to claim input tax credit by filing returns in Form I for the relevant assessment years. On receipt of the objections along with Form I returns, the respondent shall afford an opportunity of personal hearing to the petitioner, take into account Form I returns and redo the assessments in accordance with law. It is made clear that if the petitioner fails to comply with the condition imposed, the benefit of this order will not enure to the petitioner and the

writ petitions will stand automatically dismissed giving liberty to the respondent to initiate recovery proceedings. On the other hand, if the petitioner complies with the said condition, the demand of the balance tax for the assessment years from 2013-14 to 2015-16 shall remain stayed till fresh orders are passed by the respondent. No costs. Consequently, the connected WMPs are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

The Deputy Commercial Tax Officer,
Omalur Assessment Circle, Omalur.

+1cc to Mr.R.Senniappan, Advocate Sr.47495
+1cc to the Special Government Pleader Sr.48136

WP.Nos.18239 to 18241 of 2018&
WMP.Nos.21546 to 21551 of 2018

srg 01/08/2018