In the High Court of Judicature at Madras

Dated : 30.7.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.19218 to 19221 of 2018 &
WMP.Nos.22612 to 22615 of 2018

M/s.Krishna Agencies, rep.by
its Proprietor M.Gunasekar ...Petitioner

Vs

The Commercial Tax Officer,
Jeyamkondam Assessment Circle,
Commercial Tax Building,
Jeyamkondam. ...Respondent

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorarified Mandamus to call for the records on the file of the respondent in TIN 33263623141/2012-13, TIN 33263623141/2013-14, TIN 33263623141/2014-15 and TIN 33263623141/ 2015-16, respectively all dated 03.4.2018, quash the same as illegal, arbitrary and in violation of the principles of natural justice and pass an assessment order afresh in the light of the guidelines enunciated in the batch of writ petitions in the case of M/s.JKM Graphics Solutions Private Limited [reported in (2017) 99 VST 343 (Mad.)] including the opportunity of personal hearing by considering the reply dated 27.3.2018 within such time as may be directed by this Court.

For Petitioner : Mr.A.Thiyagarajan, SC for
Mr.S.Karunakar
For Respondent : Mr.M.Hariharan, AGP

COMMON ORDER

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Mr.M.Hariharan, learned Additional Government Pleader accepts notice for the respondent. Heard both. By consent, the writ petitions are taken up for joint disposal.

2. The petitioner is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006. The petitioner has filed these writ petitions challenging the assessment orders passed by the respondent for the years from 2012-13 to 2015-16.

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3. The respondent issued the notices dated 08.3.2018 proposing to revise the turnover of the petitioner by referring to certain information culled from the Departmental website. The petitioner submitted an interim reply dated 26.3.2018 for the relevant assessment years wherein he stated that he closed down the business on 31.3.2016 due to heavy loss and he had been to Chennai looking for employment and was not aware of of the inspection conducted on 14.6.2016. The petitioner further stated in the said interim reply that he is prepared to produce all the accounts for period ending 31.3.2016 and that a date may be fixed for production of the accounts.

4. This interim reply was personally handed over to the respondent by the brother of the petitioner - one Thiru M.Senthilvel. However, the respondent rejected the said interim reply not on any factual ground, but on the ground that the petitioner's brother does not carry a proper authorization to represent the petitioner in the proceedings before the respondent.

5. In the considered view of this Court, when a dealer requests time to produce the books of accounts to establish that there is no case for revision of assessment, the respondent could have considered the request positively because the revision of assessment is based upon the details taken from the official website of the Department. The manner, in which, the assessments have to be completed when the Authorities collect information from the official website of the Department, has been laid down by this Court in the case of JKM Graphics Solutions Private Limited Vs. CTO, Vepery Assessment Circle, Chennai [reported in (2017) 99 VST 343], which is required to be adopted by the respondent. For the above reasons, this Court is of the view that the assessment should be redone.

6. Accordingly, the writ petitions are allowed, the impugned orders are set aside and the matters are remanded to the respondent for a fresh consideration. The respondent shall afford an opportunity of personal hearing to the petitioner and consider the books of accounts and other documents that the petitioner may produce and after taking note of the documents and the books of accounts, the assessment shall be redone by passing a speaking order. No costs. Consequently, the connected WMPs are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

The Commercial Tax Officer, Jeyamkondam Assessment Circle,
Commercial Tax Building, Jeyamkondam.

+4cc to Mr.S.Karunakar, Advocate, S.R.No.51807

+1cc to the Spl Government Pleader, S.R.No.52040

WP.Nos.19218 to 19221 of 2018&
WMP.Nos.22612 to 22615 of 2018

GSP(09/08/2018)

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