In the High Court of Judicature at Madras

Dated : 30.7.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.19380 & 19381 of 2018
& WMP.Nos.22782 & 22783 of 2018

M/s.Indian Marine Shop, rep.by
its Proprietor Dheen Mohamed ...Petitioner

Vs

The State Tax Officer, Nagapattinam
Assessment Circle, Commercial Taxes
Building, Court Campus, Vellipalayam,
Nagapattinam. ...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 respondent respectively in TIN No.33483901313/2012-13 and TIN No.33483901313/ 2013-14, both dated 11.5.2018 and quash the same as illegal, arbitrary and against the principles of natural justice.

For Petitioner :Mr.K.Soundararajan
For Respondent :Mr.M.Hariharan, AGP

COMMON ORDER

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 is aggrieved by the revision of assessment made by the respondent for the years 2012-13 and 2013-14.

3. The respondent issued the notices respectively dated 04.4.2018 and 12.4.2018 proposing to revise the turnover for the assessment years 2012-13 and 2013-14. The reason for proposing to revise the assessment was based on details gathered from the official website of the Department pertaining to other end dealers in Annexure II. By referring to the same, in the first

case, the respondent stated that 14.5% of purchase turnover was omitted to be declared by the petitioner. So far as the second case is concerned, the respondent stated that on verification of MIS report, it came to light that the dealer effected purchase to the tune of Rs.1,78,39,679/-.

4. The petitioner submitted separate objections dated 09.5.2018. In the said objections, the petitioner sought for necessary documents, based on which, the revision was proposed. However, the request of the petitioner was not considered. Furthermore, an opportunity of personal hearing was not granted. While completing the assessment, the respondent stated that the petitioner did not file copies of Annexure I, bill copies and Annexure II for verification. There was no such direction or proposal in the notices respectively dated 04.4.2018 and 12.4.2018, which referred to only Annexure II of the other end seller. Thus, the impugned orders are not only in violation of the principles of natural justice, but have ignored the request made by the petitioner for supply of necessary documents, based on which, the revision was proposed and impugned orders travelled beyond the proposal in the revision notices respectively dated 04.4.2018 and 12.4.2018. For the above reasons, the impugned orders call for interference.

5. 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 is directed to furnish all details, based on which, he proposes to revise the turnover and grant sufficient time to the petitioner to submit their objections. On receipt of the objections, the respondent shall afford an opportunity of personal hearing to the petitioner and redo the assessment in accordance with law. No costs. Consequently, the connected WMPs are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To
The State Tax Officer, Nagapattinam Assessment Circle,
Commercial Taxes
Building, Court Campus, Vellipalayam, Nagapattinam.
+1cc to the Spl Government Pleader, S.R.No.52039 & 52041

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GSP(07/08/2018)