IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :24.01.2018

CORAM

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.17795 & 17796 of 2013
and W.M.P.Nos.1 & 1 of 2013

TVL. SRI Vanathy Enterprises,
No.21, Rangabahsyam Street,
Saidapet, Chennai 600 015. ... Petitioner in both W.P's

Vs.

The Commercial Tax Officer,
Saidapet Assessment Circle,
Office of the Assistant Commissioner (CT),
No.3, Tank Square Street,
Saidapet, Chennai 600 015. ... Respondent in both W.P's.

Prayer in W.P.No.17795 of 2013 : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records in assessment order passed in TNGST/6222247/2006-07 dated 21.01.2013 on the file of the respondent and all further proceedings in pursuance thereof and quash the same as arbitrary, illegal and violative of principles of natural justice and direct the respondent to pass orders on merits after considering the documents submitted by the petitioner in accordance with law.

Prayer in W.P.No.17796 of 2013 : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records in assessment order passed in TNGST/6222247/2006-07 dated 10.06.2013 on the file of the respondent and all further proceedings in pursuance thereof and quash the same as arbitrary, illegal and violative of principles of natural justice and direct the respondent to pass orders on merits after considering the documents submitted by the petitioner in accordance with law.

For Petitioner (in both W.P's.) : Mr.A.Thiyagarajan, Senior counsel for Mr.S.Rameshkumar

For Respondent : M/s.G.Dhana Madhri
(in both W.P's.) Government Advocate

COMMON ORDER

Heard Mr.A.Thiyagarajan, learned Senior counsel for Mr.S.Rameshkumar, learned counsel for the petitioner and M/s.G.Dhana Madhri, learned Government Advocate for the respondent.

2. The petitioner who is a registered dealer on the file of the respondent under the provisions of Tamil Nadu General Sales Tax Act (TNGST ACT) has filed writ petition in W.P.No.17795 of 2013 challenging the assessment order dated 21.01.2013 and other writ petition in W.P.No.17796 of 2013 challenging the order dated 10.06.2013 rejecting the petitioner's application for rectification filed under Section 84 of the Act. The first and foremost ground canvassed by the petitioner in the writ petitions is that the impugned order has been passed without reference to the objections filed by the petitioner to the revision notice. The facts clearly show that on account of the change of Assessing Officer, a mistake appears to have been crept in and the new Assessing Officer without reference to the reply given by the petitioner on 05.01.2012 to the first revision notice dated 22.03.2011 has passed the impugned assessment order.

3. Record of the proceedings show that the first revision notice was issued on 22.03.2011, for which, the petitioner sent a detailed reply on 05.01.2012 which was received in the office of the respondent by endorsing in the letter delivery book and a copy of which is found in page No.8 of the typed set of papers. Subsequently, the earlier officer issued notice of personal hearing, for which, the petitioner requested certain documents by filing a petition dated 12.01.2012 and thereafter for nearly 11 months, no action was initiated and for the first time in November 2012 revised notice was issued by the new Assessing Officer and the assessment has been completed and order has been passed on 21.01.2013 stating that the petitioner has not filed any objections. The finding rendered by the respondent in the impugned order is not sustainable on account of the above factual position.

4. Thus, for the above reasons, the writ petitions are allowed, the impugned orders are set aside and the matter is remanded to the respondent for fresh consideration. The petitioner is directed to file a comprehensive objections dealing with allegations in the notice dated 22.03.2011 as well as the revised notice dated 29.11.2012 within a period of 15 days from the date of receipt of a copy of this order. On

receipt of the objections, the respondent shall afford an opportunity of personal hearing to the petitioner and re-do the assessment in accordance with law. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

(sji/cse)
To

The Commercial Tax Officer,
Saidapet Assessment Circle,
Office of the Assistant Commissioner (CT),
No.3, Tank Square Street,
Saidapet, Chennai 600 015.

+1cc to Mr.S.Rameshkumar, Advocate,S.R.No.5569
+1cc to the Government Pleader, S.R.No.6109

W.P.Nos.17795 & 17796 of 2013
and W.M.P.Nos.1 & 1 of 2013

klt(10.02.2018)