IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2018

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.18472 to 18477 of 2013
and
M.P.Nos.1,1,1,1,1, & 1 of 2013

Tvl.B.K.S.Textiles Private Ltd.,
Represented by its Managing Director,
M.Senthilkumar,
Kungumapalayam Pirivu,
Palladam Road,
Tirupur. ... Petitioner in all the Wps

Vs.

The Commercial Tax Officer,
Palladam Assessment Circle,
Palladam. ... Respondent in all the Wps

Prayer in WP.18472/13: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus calling for the records on the file of the respondent in TIN.No.33256242971/2012-12 dated 16.05.2013 and quash the same in so far as the months of February 2012 is concerned as being contrary to the principles of natural Justice, without Jurisdiction and authority of law and further direct the respondent to pass order afresh after grant of notice and opportunity.

Prayer in WP.18473/13: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the records on the files of the respondent in TIN. NO. 33256242971/2012-13 dt 16.5.2013 and quash the same in so far as the month of June 2012 is concerned as being contrary to the principles of natural justice, without jurisdiction and authority of law and further direct the respondent to pass order afresh after grant of notice and opportunity.

Prayer in WP.18474/13: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of

Certiorarified Mandamus calling for the records on the files of the respondent in TIN. NO. 33256242971/2012-13 dt 16.5.2013 and quash the same in so far as the month of May 2012 is concerned as being contrary to the principles of natural justice, without jurisdiction and authority of law and further direct the respondent to pass order afresh after grant of notice and opportunity.

Prayer in WP.No.18475/13 :Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarifed Mandamus calling for the records on the files of the respondent in TIN. NO. 33256242971/2011-12 dt 16.5.2013 and quash the same in so far as the month of March 2012 is concerned as being contrary to the principles of natural justice, without jurisdiction and authority of law and further direct the respondent to pass order afresh after grant of notice and opportunity.

Prayer in WP.No.18476/13 :Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarifed Mandamus calling for the records on the files of the respondent in TIN.NO. 33256242971/2011-12 dt 16.5.2013 and quash the same in so far as the month of January 2012 is concerned as being contrary to the principles of natural justice without jurisdiction and authority of law and further direct the respondent to pass order afresh after grant of notice and opportunity.

Prayer in WP.No.18477/13 :Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarifed Mandamus calling for the records on the files of the respondent in TIN. NO. 33256242971/2012-12 dt 16.5.2013 and quash the same in so far as the month of April 2012 is concerned as being contrary to the principles of natural justice without jurisdiction and authority of law and further direct the respondent to pass order afresh after grant of notice and opportunity.

For Petitioner : Mr.R.Senniappan
(in all Wps)

For Respondent : Ms.Dhanamadhri
(in all W.P.) Government Advocate

O R D E R

Heard Mr.R.Senniappan, learned counsel for the petitioner and Ms. G.Dhanamadhri, learned Government Advocate appearing on behalf of the respondents.

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. In this writ petition the petitioner has challenged the assessment orders passed by the respondent for the months of January 2012 to June 2012. Since the years in question namely, 2011-12 and 2012-13 are already over, the respondents should re-do and complete the assessment for the entire year and this being the settled legal position, the impugned orders passed by the respondents on a month to month basis has to be necessarily set aside.

3.The learned counsel for the petitioner pointed out that when the assessing officer does the assessment, the petitioner may be permitted to canvass all points including the refund of input tax made by the petitioner in Form-W.

4.It goes without saying that when the matter is remanded for fresh consideration and when it is an open remand, all issues have to be considered by the Assessing Officer, without reference to the observations contained in the impugned assessment orders.

5.For the above reasons, the writ petition is allowed and the impugned orders are set aside and the matter is remanded back to the respondents for redoing the assessment for the whole year, after issuing notice to the writ petitioner and an opportunity of personal hearing to the authorised representative of the writ petitioner. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True copy//

Sub Assistant Registrar

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To

The Commercial Tax Officer,
Palladam Assessment Circle,
Palladam.

+1cc to Mr.R.Senniappan, Advocate SR.No.4482
+1cc to Special Government Pleader SR.No.5238

W.P.Nos.18472 to18477 of 2013

KGK(CO)
GN(17/02/2018)