IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2018

CORAM

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

W.P.No.29909 of 2013
&
M.P.No.1 of 2013

Ponmoney Marketing (P) Ltd.,
41, Railway Colony 1st Street
Chennai- 600 029 ... Petitioner

Vs.

The Assistant Commissioner (CT)
Vadapalani-II Assessment Circle
Chennai ...Respondent

Prayer: Writ Petitions filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus calling for all the records on the file of the respondent in TIN/33821481752/2010-11 dated 28.06.2013 under the TNVAT Act 2006 and quash the same as being contrary to the principles of natural justice and that of the principles laid down by the Honourable Madurai Bench of the Madras High Court in W.P.(MD) Nos.3117 to 3121 of 2013 dated 16.04.2013 involving Anchor Electricals (Pvt) Limited Vs. Assitant Commissioner (CT), Chockikulam Assessment Circle and further direct the respondent to pass orders afresh in accordance with law.

For Petitioner : Mr.R.Senniappan
For Respondents : Mr.M.Hariharan
Additional Govt. Pleader

O R D E R

Heard Mr.R.Senniappan, learned counsel for the petitioner and Mr.M.Hariharan, learned Additional Government Pleader appearing for the respondents.

2.The petitioner has impugned the order of assessment passed under the provisions of the Tamil Nadu Value Added Tax Act, 2006 for the Assessment year 2010-11 dated 28.06.2013. The only ground on which the impugned order has been challenged is, by contending that revision notice dated 18.02.2013 has not been served on the petitioner and therefore, the ex parte Assessment Order is not sustainable.

3.From the counter affidavit filed by the respondent it is seen that the revision notice was sent to the petitioner by Registered Post on 01.03.2013 and it was refused by the petitioner and hence the postal authorities have returned the notice on 13.03.2013. Thereafter, the respondent affixed the notice in the place of business of the petitioner and since the petitioner did not file any objection, the respondent proceeded to complete the assessment and passed the impugned Assessment Order. Thus, I find that there is sufficient compliance of Rule 19(1)(b) of the TNVAT Rules 2007. However, considering that the allegation against the petitioner is regards ineligible availment of Input Tax Credit on interstate purchase, this Court is inclined to give one more opportunity to the petitioner, subject to condition.

Accordingly, this writ petition is disposed of by directing the petitioner to pay 15% of the disputed tax within a period of three weeks from the date of receipt of a copy of this order. If this condition is complied with within the time permitted, the petitioner is entitled to treat the impugned order as show-cause notice and submit their objections and produce documents in support of their stand within a period of two weeks thereafter. On receipt of objection, the respondent shall afford an opportunity of personal hearing to the petitioner and consider the objections and pass orders on merits and in accordance with law as expeditiously as possible, preferably within a period of 15 days after the personal hearing is concluded. Till the above exercise is completed, no coercive action shall be initiated against the petitioner for recovering the balance amount of tax over and above 15%. No costs. Consequently, the connected miscellaneous petitions is closed.

Sd/-
Assistant Registrar(CS V)

//True copy//

Sub Assistant Registrar

To

The Assistant Commissioner (CT)
Vadapalani-II Assessment Circle
Chennai

+1cc to Mr.R.Senniappan, Advocate SR.No.37306
+1cc to Government Pleader SR.No.37659

W.P.No.29909 of 2013 &
M.P.No.1 of 2013

PA(CO)
GN(26/06/2018)