IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:12.10.2018

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.Nos.27193 & 27198 of 2018
and
W.M.P.Nos.31612,31616,31621 & 31624 of 2018

M/s.Arunaa Enterprises,
Rep by its Partner, Ms.Kodali Asha,
No.9, VOC Street,Pallikaranai,
Chennai - 600 100.

...Petitioner (in all WPs)

Vs.

1.The Deputy Commercial Tax Officer (CT)(FAC)
Medavakkam Assessment Circle,
No.,26-D, BHEL Nagar, 4th Main Road,
8th Cross Street, Medavakkam,
Chennai - 600 100.

2.The State of Tamilnadu,
Rep by its Secretary,
Commercial Taxes and Registration Department,
Fort St George, Chennai - 600 009.

...Respondents (in all WPs)

Writ Petitions filed under Article 226 of the Constitution of India praying to issue a WRIT OF CERTIORARIFIED MANDAMUS, calling for the records of the first respondent in CST/987503/2014-15 and CST/987503/2015-16 respectively dated 28/11/2016, quash the same as ultravires of Article 286(1)(b) of the Constitution of India read with Section 5(3) and Section 5(4) of the Central Sales Tax Act, 1956 and further direct the first respondent to grant an opportunity of "personal hearing" as mandated u/s.22(4) of the Tamilnadu Value Added Tax Act, 2006 read with Section 9(2A) of the Central Sales Tax Act, 1956 and thereafter pass order in accordance with the provisions of the Act.

For Petitioner : Mr.V.Sundareswaran
(in all Wps)
For Respondents : Mr.M.Hariharan,
Additional Government Pleader (Tax)
(in all WPs)

C O M M O N O R D E R

Mr.M.Hariharan, learned Additional Government Pleader (Tax) takes notice for the respondents and by consent of the parties, these writ petitions are taken up for final disposal at the admission stage itself.

2. Both these writ petitions are filed challenging the orders of assessment dated 28.11.2016 passed in respect of assessment years 2014-2015 and 2015-2016.

3. The main grievance expressed before this Court against the impugned orders of the assessment is that the Assessing Officer has not afforded an opportunity of personal hearing to the petitioner before passing the impugned orders under Section 22(4) of the Tamil Nadu Value Added Tax Act, 2006. Thus, it is contended that in the absence of such personal hearing, the impugned orders of assessment cannot be sustained.

4. On the other hand, the learned Additional Government Pleader (Tax) appearing for the respondents submitted that the petitioner has already approached the first respondent and filed the petitions under Section 84 of the TNVAT Act, 2006, on 29.06.2018 and therefore, the petitioner can raise all the objections in such proceedings as raised in these writ petitions.

5. Considering the above stated facts and circumstances, more particularly, the fact that the petitioner has already filed the applications under Section 84 of the TNVAT Act, 2006, and the same is pending, this Court is of the view that it is for the first respondent to consider such application and pass orders on the same on merits and in accordance with law after giving due opportunity of personal hearing to the petitioner.

6. Accordingly, these writ petitions are disposed of, by directing the first respondent to consider the said applications filed by the petitioner under Section 84 of the TNVAT Act, 2006 dated 29.06.2018 and pass orders on the same on merits and in accordance with law. Such exercise shall be done by the first respondent within a period of six weeks from the date of receipt of a copy of this order. Till an order is passed by the first respondent, as stated supra, no coercive steps shall be taken against the petitioner to recover the impugned tax due. No costs. Consequently, the connected miscellaneous petitions are closed.

Krk

Sd/-
Asst.Registrar (CS V )

/true copy/

Sub Asst. Registrar

To

1.The Deputy Commercial Tax Officer (CT)(FAC)
Medavakkam Assessment Circle,
No.,26-D, BHEL Nagar, 4th Main Road,
8th Cross Street, Medavakkam,
Chennai - 600 100.

2. The Secretary,
The State of Tamilnadu,
Commercial Taxes and Registration Department,
Fort St George, Chennai - 600 009.

+ 1 cc to Mr.V.Sundareswaran, Advocate Sr 71186

+ 1 cc to The Spl.Govt. Pleader (Taxes), Sr 71344

KR/12/11/18

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