IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.10.2018

CORAM

THE HON'BLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.Nos. 28278, 28280, 28283, 28288, 28297, 28300 and 28303 of 2018
in
W.M.P.Nos. 32978, 32980, 32986, 32989, 32994, 32998 and 33002 of 2018

M/s. T.N.C. Santhosh,
Rep. by its Proprietor,
No.7, Kummalaamman Koil Street,
Chennai - 600 081. ..Petitioner in all the W.Ps

vs.

The Assistant Commissioner (ST),
Tondiarpet Assessment Circle,
Chennai - 600 081. .. Respondent in all the W.Ps

COMMON PRAYER :

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 respondent and quash the assessment proceedings in TIN No.33761200679/2007-08, TIN No.33761200679/2013-14, TIN No.33761200679/2012-13, TIN No.33761200679/2011-12, TIN No.33761200679/2010-11, TIN No.33761200679/2009-10 and TIN No.33761200679/2008-09 respectively dated 14.09.2018 and direct the respondent to pass fresh orders after providing an opportunity of personal hearing to the petitioner.

For Petitioner : Mr.C.Baktha Siromoni
(in all WPs)

For Respondent : Mr.M.Hariharan
Additional Government Pleader
(in all WPs)

C O M M O N O R D E R

Mr.M.Hariharan, learned Additional Government Pleader takes notice for the respondent. By consent of the parties, these main writ petitions are taken up for final disposal at the admission stage itself.

2. The petitioner is aggrieved against the orders dated 14.09.2018 passed under Section 84 of the Tamil Nadu Value Added Tax Act, 2006 (TNVAT Act, 2006) in rejecting the petitions dated 10.08.2018 filed by the petitioner under Section 84 of the TNVAT Act, 2006, in respect of the assessment years 2007-2008 to 2013-2014.

3. Heard both sides.

4. The main grievance expressed before this Court against the impugned orders is that the same was passed without considering the contentions raised by the petitioner in their petition filed under Section 84 of the TNVAT Act, 2006 and also in violation of principles of natural justice, since no personal hearing was given to the petitioner even though the same was sought for in the petitions.

5. It is seen that in respect of the assessment years 2007-2008 to 2013-2014, the petitioner was given pre-assessment notices dated 19.12.2015 and that the petitioner has also filed their reply on 18.01.2016. It is further seen that after considering the said reply, the Assessing Officer has passed the orders of assessment dated 29.06.2018 in respect of the subject matter assessment years. Thereafter, the petitioner filed the petitions under Section 84 of the TNVAT Act, 2006 on 10.08.2018, by raising very many contentions including by stating that the manner in which the turn over arrived by the Assessing Officer, is not in accordance with the definition of the turn over as per Section 2(41) of the TNVAT Act, 2006 and therefore, such erroneous assumption of turn over for arriving at tax liability has to be rectified. The petitioner in the petitions filed under Section 84 of the TNVAT Act, also specifically sought for providing an opportunity of personal hearing before finalizing the issue, if the respondent is not satisfied with the contentions raised in the petitions. However, the respondents apart from not providing an opportunity of personal hearing to the petitioner, has passed cryptic order without discussion of any facts and circumstances and meeting the points raised by the petitioner in a detailed manner and rejected the petitions filed under Section 84 of the TNVAT Act, 2006. Therefore, I am of the view that the matter deserves to be remitted back to the respondent for reconsidering the same once again on merits and to pass orders in accordance with law, after hearing the petitioner. At the same time, this Court also makes it very clear that it is not expressing any view on the merits of the contentions raised by the petitioner or the orders passed by the Assessing Authority.

6. Accordingly, all these writ petitions are allowed and the impugned proceedings are set aside. Consequently, the matter is

remitted back to the respondent for passing fresh orders on the petitions filed by the petitioner under Section 84 of the TNVAT Act, after providing due opportunity of personal hearing to the petitioner. Such exercise shall be done by the respondent within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

The Assistant Commissioner (ST),
Tondiarpet Assessment Circle,
Chennai - 600 081.

+1cc to Mr.C.Baktha Siromoni, Advocate, S.R.No.74225
+1cc to the Special Government Pleader, S.R.No.73636

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KAN(CO)
CS/12/11/2018