BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.06.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P(MD)Nos.12221 to 12227 of 2018
and
W.M.P(MD)Nos.11117 to 11123 of 2018

W.P(MD)No.12221 of 2018:

Tvl.Vasantham Departmental and Medical Stores,
represented by its
Managing Partner,
S.Nazimudeen,
No.214, West Car Street,
Dindigul - 624 001. ... Petitioner in all WPs

Vs.

1. The Commissioner of Commercial Taxes,
   Office of the Principal and Special Commissioner of
   Commercial Taxes,
   Ezhilagam,
   Chepauk,
   Chennai - 600 005.

2. The Assistant Commissioner (CT)-III,
   Dindigul - III Assessment Circle,
   Commercial Taxes Buildings,
   Sub-Collector Office Road,
   Dindigul - 624 001. ... Respondents in all WPs

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for issuance of a writ of Certiorarified Mandamus to call for the records pertaining to the impugned proceedings of the second respondent in TIN:33705241441/2010-11,2011-12,2012-13,2013-14,2014-15,2015-16,2016-17 respectively dated 25.04.2018 and quash the same and to direct the second respondent to re-do the assessment after conducting detailed enquiry and by giving adequate opportunity to the petitioner.

For Petitioner : Mr.Raja.Karthikeyan

For Respondent : Mrs.J.Padmavathi Devi,
Special Government Pleader

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COMMON ORDER

W.P(MD)No.12221 of 2018 has been filed seeking a writ of Certiorarified Mandamus to call for the records pertaining to the impugned proceedings of the second respondent in TIN:33705241441/2010-11, dated 25.04.2018 and quash the same and to direct the second respondent to re-do the assessment after conducting detailed enquiry and by giving adequate opportunity to the petitioner.

2. W.P(MD)No.12222 of 2018 has been filed seeking a writ of Certiorarified Mandamus to call for the records pertaining to the impugned proceedings of the second respondent in TIN:33705241441/2011-12, dated 25.04.2018 and quash the same and to direct the second respondent to re-do the assessment after conducting detailed enquiry and by giving adequate opportunity to the petitioner.

3. W.P(MD)No.12223 of 2018 has been filed seeking a writ of Certiorarified Mandamus to call for the records pertaining to the impugned proceedings of the second respondent in TIN:33705241441/2012-13, dated 25.04.2018 and quash the same and to direct the second respondent to re-do the assessment after conducting detailed enquiry and by giving adequate opportunity to the petitioner.

4. W.P(MD)No.12224 of 2018 has been filed seeking a writ of Certiorarified Mandamus to call for the records pertaining to the impugned proceedings of the second respondent in TIN:33705241441/2013-14, dated 25.04.2018 and quash the same and to direct the second respondent to re-do the assessment after conducting detailed enquiry and by giving adequate opportunity to the petitioner.

5. W.P(MD)No.12225 of 2018 has been filed seeking a writ of Certiorarified Mandamus to call for the records pertaining to the impugned proceedings of the second respondent in TIN:33705241441/2014-15, dated 25.04.2018 and quash the same and to direct the second respondent to re-do the assessment after conducting detailed enquiry and by giving adequate opportunity to the petitioner.

6. W.P(MD)No.12226 of 2018 has been filed seeking a writ of Certiorarified Mandamus to call for the records pertaining to the impugned proceedings of the second respondent in TIN:33705241441/2015-16, dated 25.04.2018 and quash the same and to direct the second respondent to re-do the assessment after conducting detailed enquiry and by giving adequate opportunity to the petitioner.

7. W.P(MD)No.12227 of 2018 has been filed seeking a writ of Certiorarified Mandamus to call for the records pertaining to the impugned proceedings of the second respondent in TIN:33705241441/2016-17, dated 25.04.2018 and quash the same and to direct the second respondent to re-do the assessment after conducting detailed enquiry and by giving adequate opportunity to the petitioner.

8. The petitioner is a dealer registered under the respondents by TIN:33705241441 under the Tamil Nadu Value Added Tax Act [in short "TNVAT Act"]. He is filing returns regularly. Pursuant to the VAT Audit conducted in the place of business on 10.01.2017 and on the basis of web report, the second respondent issued notices dated 25.01.2018 for the assessment years 2010-11, 2011-12, 2012-13, 2013-14, 2014-15, 2015-16 and 2016-17 respectively. The petitioner filed his objections on 21.03.2018, wherein he sought for certain details invoice wise and date wise towards reversal of Input Tax Credit made by him, but, without providing the details and also without affording an opportunity of personal hearing, the second respondent passed the impugned order on 25.04.2018. Complaining violation of principles of natural justice, the petitioner is before this Court.

9. On perusal of the impugned orders, it is seen that the details sought for by the petitioner are said to have been annexed with the revision notices. Whereas the annexure does not disclose complete details. Further, as held by this Court in ***Tvl.JKM Graphics Solutions Private Limited v. Commercial Tax Officer, Vepery Assessment Circle, Chennai***, it is incumbent on the second respondent to conduct enquiry and thereafter, issue notice based on the materials available.

10. In the instant case, neither enquiry was conducted nor materials for issuing the revision notices were supplied to the petitioner. Apart from this, the opportunity of personal hearing was also not given to the petitioner as instructed by the Head of the Department, namely, the Commissioner of Commercial Taxes and also the judgment of this Court.

11. In such circumstances, I am inclined to set aside the impugned orders dated 25.04.2018, in TIN:33705241441/2010-11, TIN: 33705241441/2011-12, TIN: 33705241441/2012-13, TIN: 33705241441/2013-14, TIN: 33705241441/2014-15, TIN: 33705241441/2015-16 and TIN: 33705241441/2016-17 respectively and remand the matters to the second respondent for fresh consideration. The second respondent is directed to conduct an enquiry and issue fresh revision notice to the petitioner. On receipt of the notice, the petitioner shall submit his objections within a period of fifteen days thereafter and appear for personal hearing as may be fixed by

the second respondent without taking any adjournment. The second respondent shall pass orders on merits in accordance with law within a period of fifteen days from the date of personal hearing given to the petitioner.

12. In the result, these writ petitions are disposed of as above. No costs. Consequently, the connected writ miscellaneous petitions are closed.

Sd/-
Assistant Registrar(W)

/True Copy/

Sub Assistant Registrar

To

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   Office of the Principal and Special Commissioner of
   Commercial Taxes,
   Ezhilagam,
   Chepauk,
   Chennai - 600 005.

2. The Assistant Commissioner (CT)-III,
   Dindigul - III Assessment Circle,
   Commercial Taxes Buildings,
   Sub-Collector Office Road,
   Dindigul - 624 001.

+1cc to Mr.B.ROOBAN, Advocate Sr.No.68425

RSB

VB/SV/MMS/SAR1/29.06.2018/4P/4C

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and
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