BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.06.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P(MD)Nos.12903 and 12904 of 2018
and
W.M.P(MD)Nos.11797 and 11798 of 2018

W.P(MD)No.12903 of 2018:

Tvl.Vishnu Enterprises,
represented by its
Proprietrix,
S.Manonmani. ... Petitioner

Vs.

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

2. The State Tax Officer - III,
   (On Deputation at Dindigul - I Assessment Circle),
   Commercial Tax Office,
   Court Road,
   Dindigul - 624 001. ... Respondents

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:33735201703/2012-13, dated 25.04.2018 and quash the same and direct the second respondent to re-do the assessment after conducting detailed enquiry and by giving adequate opportunity to the petitioner.

For Petitioner : Mr.B.Rooban
For Respondents : Mr.A.Muthukaruppan,
Additional Government Pleader

W.P(MD)No.12904 of 2018:

Tvl.Vishnu Enterprises,
represented by its
Proprietrix,
S.Manonmani. ... Petitioner

Vs.

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

2. The State Tax Officer – III,
(On Deputation at Dindigul – I Assessment Circle),
Commercial Tax Office,
Court Road,
Dindigul – 624 001. ... Respondents

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:33735201703/2014-15, dated 25.04.2018 and quash the same and direct the second respondent to re-do the assessment after conducting detailed enquiry and by giving adequate opportunity to the petitioner.

For Petitioner : Mr.B.Rooban
For Respondent : Mr.A.Muthukaruppan, Additional Government Pleader

COMMON ORDER

W.P(MD)No.12903 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:33735201703/2012-13, dated 25.04.2018 and quash the same and 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.12904 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:33735201703/2014-15, dated 25.04.2018 and quash the same and direct the second respondent to re-do the assessment after conducting detailed enquiry and by giving adequate opportunity to the petitioner.

3. The petitioner is a dealer in weaving of yarn waste and registered under the TNVAT Act as well as CST Act. In respect of the returns submitted by her for the assessment years 2012-13 and 2014-15, a VAT audit was conducted in the place of business. Based on the inspection report as well as web report, the second respondent issued revision notices dated 20.03.2018. The petitioner submitted

her objections dated 20.04.2018, which are said to have been received by the second respondent on 24.04.2018 and on the very same day, the second respondent passed the impugned orders. The objections raised by the petitioner were rejected on the ground that the documents were not produced by the petitioner at the time of inspection. Therefore, the objections raised by the petitioner do not require any consideration. The second respondent overruled the objections and passed final orders.

4. I have considered the rival contentions.

5. On a perusal of the impugned orders, it is clearly seen that the on the one hand, the second respondent failed to consider the objections on its merits and on the other hand, failed to provide an opportunity of personal hearing to the petitioner to explain the defence put forward by the petitioner. Such type of orders are certainly violative of principles of natural justice. Therefore, the impugned orders passed by the second respondent are liable to be set aside.

6. Accordingly, the impugned orders dated 25.04.2018, passed by the second respondent in TIN:33735201703/2012-13 and TIN:33735201703/2014-15 respectively, are set aside and the matters are remanded back to the second respondent for fresh consideration. The second respondent is directed to consider the objections raised by the petitioner on its merits by independently applying his mind to the materials relied on by the petitioner and pass orders after providing an opportunity of personal hearing to her.

7. With the above observations, both the writ petitions are ordered as above. No costs. Consequently, the connected writ miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To
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 (ST)-III,
Dindigul - III Assessment Circle,
Commercial Taxes Buildings,
Sub-Collector Office Road,
Dindigul - 624 001.

3. The State Tax Officer - III,
(On Deputation at Dindigul - I Assessment Circle),
Commercial Tax Office,
Court Road,
Dindigul - 624 001.

+1cc to Mr.B.Rooban, Advocate in SR. No.68424
+1cc to SPECIAL GOVERNMENT PLEADER, SR. No.68643
rsb
MK/SKN RSK/SAR 3/02.07.2018/4P/6C

W.P(MD)Nos.12903 and 12904 of 2018
and
W.M.P(MD)Nos.11797 and 11798 of 2018
18.06.2018