BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 01.08.2018
CORAM:
THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P.(MD)Nos.12948 to 12950 of 2018
and
W.M.P.(MD)Nos.11833 to 11835 of 2018

M/s.Bharath Cotton Company,
Represented by its Proprietor,
R.Ramadass : Petitioner in all W.Ps.

Vs.

The Assistant Commissioner (ST)-5,
Commercial Taxes Buildings,
Dindigul. : Respondent in all W.Ps.

COMMON PRAYER: Writ Petitions are filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records in TIN 33705381024/2011-12, TIN 33705381024/2013-14 and TIN 33705381024/2014-15, dated 26.03.2018 respectively issued by the respondent and quash the same as wholly without jurisdiction, being contrary to the judgment of this Court reported in the case of STATE OF PUNJAB AND OTHERS Vs. SETH GANPAT RAM COTTON GINNING AND PRESSING FACTORY AND OTHERS reported in [1989] 74 STC 1(SC) and THE ASSISTANT COMMISSIONER (CT), KOYAMBEDU ASSESSMENT CIRCLE, CHENNAI Vs. INFINITI WHOLESALE LIMITED reported in [2017] 99 VST 430 and direct the respondent to conduct an enquiry with other end dealers by considering the replies dated 02.12.2017 and 21.03.2018 as contemplated under Section 27 of the TNVAT Act, 2006 and pass an assessment order afresh in the light of the guidelines enunciated in the batch of Writ Petitions in the case of M/s.JKM Solutions Private Limited reported in 2017(99) VST 343 (Mad) including the opportunity of personal hearing within such time as may be directed by this Court.

For Petitioner in all W.Ps. : Mr.S.Karunakar

For Respondent in all W.Ps. : Mrs.J.Padmavathi Devi,
Special Government Pleader

COMMON ORDER

The petitioner challenges the orders in TIN 33705381024/2011-12, TIN 33705381024/2013-14 and TIN 33705381024/2014-15, dated 26.03.2018, respectively passed by the respondent.

2. The respondent in compliance with the principles of natural justice has afforded ample opportunity to the petitioner to file objections and also submit his defence. The petitioner has failed to avail all the opportunities provided by the respondent. However, it is contended that there is no liability to pay tax and also the petitioner seeks for one more opportunity to explain the case before the respondent. But, so far, the Government has also not recovered any amount from the petitioner.

3. In the facts and circumstances of the case, in order to provide one more opportunity to the petitioner, the impugned orders dated 26.03.2018 are set aside and the matters are remanded back to the respondent for affording an opportunity of personal hearing to the petitioner. The petitioner is directed to appear before the respondent, within a week from the date of receipt of a copy of this order and make his submissions on merits. After hearing the petitioner, the respondent is directed to pass orders on merits and in accordance with law, within a period of one month thereafter.

4. The Writ Petitions are allowed to the extent indicated above. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar(CS-III)

To
The Assistant Commissioner (ST)-5,
Commercial Taxes Buildings,
Dindigul.

+1CC to Mr.S.Karunakar, Advocate, SR.No.76385
+1CC to the Special Government Pleader SR.No. 76580

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ES/RP/SAR 3/11.08.2018/2P/4C