In the High Court of Judicature at Madras

Dated : 11.02.2019

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The Honourable Dr.Justice ANITA SUMANTH

W.P.Nos.3825, 3830, 3831, 3835 and 3839 of 2019
and W.M.P.Nos.4250, 4254. 4256, 4258 and 4264 of 2017

M/s.Digital Mobiles
represented by its Proprietor
M.Ragavendra
No.37/321, A3, M.G. Road,
Hosur, Krishnagiri District.

...Petitioner in the above W.P.s

Vs

The Assistant Commissioner (ST),
Hosur South Assessment Circle,
Hosur, Krishnagiri District.

...Respondent in the above W.P.s

PETITIONs under Article 226 of The Constitution of India praying for the issuance a Writ of Certiorari to call for the records of the respondent in TIN 33253364690/2010-2011, 2011-12, 2012-13, 2013,14 and 2014-15 dated 31.01.2018 and quash the same as illegal, arbitrary, without jurisdiction and authority of law and contrary to the principles of natural justice.

For Petitioner : Mr. K.Soundararajan
For Respondent : Mr. M.Hariharan, AGP

C O M M O N O R D E R

These Writ Petitions challenge orders of assessment all dated 31.01.2018 passed in terms of the provisions of the Tamil Nadu Value Added Tax Act, 2006 (in short 'Act') for the periods 2010-11 to 2014-15.

2. The orders of assessment have been passed on the premise that the Input Tax Credit sought by the assessee is liable to be reversed and penalty at 50% of the tax under section 274(4)(i) of the Act is liable to be imposed as well. Prior to passing of the impugned orders of assessment pre-assessment notices dated

31.10.2017 were issued to the assessee calling upon it to file its objections to the proposals contained therein. The petitioner filed objections that were not taken on file or considered, since, admittedly, the objections were not signed by the petitioner. The proposals contained in the show cause notice were thus confirmed without reference to the objections filed by the petitioner/assessee.

3. Learned counsel for the petitioner places reliance on the decision of this Court in the case of Elite Furniture Mart V. Assistant Commissioner (ST), Nawab Hakkim Road Circle, Coimbatore ([2018] 59 GSTR 286 (Mad)) to the effect that no reversal of Input Tax Credit (ITC) is liable to be made on account of a mismatch between the details of sales produced by the assessee and those produced by the sellers, if the assessee has produced all required particulars to establish his purchase figures.

4. In the present case, detailed objections have been raised before the Assessing Authority pointing out that the impugned orders of assessment rely on various particulars, such as the bill wise details, invoice numbers, dates of invoice, commodity code, assessable value of goods, tax paid on invoice and total value of the invoices, none of which have been furnished to the petitioner. The petitioner had requested that the aforesaid information be provided to it in order that he may file appropriate objections to the same. However, the objections filed by the petitioner dated 04.12.2017 were not been taken into account by the Assessing Officer.

5. Bearing in mind the limited scope of controversy before me that revolves around the violation of principles of natural justice, I direct the petitioner to file an authenticated copy of the objection as filed earlier on 04.12.2017 along with additional submissions, if required and appear before the Assessing Officer on 28.02.2019 at the first instance.

6. The Assessing Authority, upon receipt of the objections shall furnish the particulars sought for by the petitioner, afford an opportunity of personal hearing and pass a detailed speaking order within a period of three (3) months from the date of conclusion of the assessment proceedings.

7. The Writ Petitions are disposed of in the above terms. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

The Assistant Commissioner (ST),
Hosur South Assessment Circle,
Hosur, Krishnagiri District.

+5cc to Mr.K.Soundarajan, Advocate, S.R.No. 12990
+1cc to the Special Government Pleader(Taxes), S.R.No. 12347

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KAN(CO)
GN(13/02/2019)