IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.10.2019

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

Writ Petition Nos.30377 to 30381 of 2011

& M.P.Nos.1,1,1,1 and 1 of 2011

M/s.Centwin Hosiery Mills Pvt. Ltd.,
Represented by its Managing Director,
P.Palanisamy,
No.325/2, Nachipalayam Pirivu,
Palladam Road, Veerapandi,
Tirupur.

...Petitioner in the above W.Ps

-Vs-

The Commercial Tax Officer,
Bazaar Circle, Tirupur.

... Respondent in the above W.Ps

Prayer: PETITIONs filed under Article 226 of The Constitution of India praying for the issuance of Writ of Certiorarified Mandamus calling for the records on the files of the respondent in TIN No.33592423991/06-07, 09-10, 10-11, 07-08 and 08-09 respectively dated 16.09.2011 and quash the same as being contrary to the principles of natural justice, without jurisdiction and authority of law and further direct the respondent to pass order afresh as requested by the petitioner vide his representation dated 14.11.2011 and reminder letter dated 2.12.2011.

For Petitioner in the above W.Ps : Mr.R.Senniappan

For Respondent in the above W.Ps : Mr.V.Haribabu
Addl. Govt.Pleader

C O M M O N O R D E R

Heard Mr.Senniappan, learned counsel for the petitioner and Mr.V.Haribabu, learned Additional Government Pleader for the respondent.

2. These Writ Petitions challenge orders of assessment passed in terms of the provisions of the Tamil Nadu Value Added Tax Act, 2006 (in short 'Act') for the periods 2006-07 to 2009-10.

3. The petitioner is a manufacturer and exporter of Hosiery and garments. In response to pre-assessment notices dated 18.05.2011 received for the periods in question, books of accounts as well as financials appear to have been produced before the respondent on 24.06.2011. The typed set of documents annexed to the Writ Petition, at page 16, contains an endorsement in the delivery book of the petitioner to the aforesaid effect.

4. The impugned orders of assessment have however come to be passed without grant of personal hearing and noting that there were no objections filed to the pre-assessment proposals. Firstly, the non-grant of personal hearing is contrary to the principles of natural justice as well as to the instructions issued by the Principal Commissioner of Commercial Taxes. This Court has been taking a consistent view, referring to instructions issued by the Principal Commissioner of Commercial Taxes, compliance with the principles of natural justice would include a personal hearing as well, noting Departmental Circulars to the effect that such opportunity be granted to the dealer concerned, notwithstanding whether such request has been made or not. This is one aspect of the matter.

5. Secondly, the observation of the respondent officer to the effect that the dealer has not filed objections and the reiteration of this allegation in the counter affidavit appear to be factually incorrect in the light of the acknowledgement of the respondent Officer receiving the export documents and other statements, on 24.06.2011.

6. On both the above counts, I am thus inclined to set aside the impugned assessment orders and do so. The petitioner shall appear before the Assessing Authority on Friday, the 15th November, 2019 at 10.30 a.m. with written submissions as well as materials in support of its stand in response to the pre-assessment proposals. No further notice need be issued in this regard. After hearing the petitioner and considering the objections and evidence filed, if any, speaking orders on the merits of the issues raised shall be passed by the Assessing Authority within a period of four (4) weeks from date of conclusion of the personal hearing.

7. These Writ Petitions are allowed in the aforesaid terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To
The Commercial Tax Officer,
Bazaar Circle, Tirupur.

+1cc to Mr.R.senniappan, Advocate, SR.No.88828
+1cc to Special Govt.Pleader (Taxes) Vide Sr.No.89256

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Kak(18/11/2019)