IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.09.2019

CORAM

THE HONOURABLE Dr. JUSTICE ANITA SUMANTH

W.P.Nos.32920 and 32921 of 2012 and
MP.Nos.2 and 2 of 2012

M/s.Arunachalam Timber Depot,
Represented by its Proprietor,
No.1-A, Singavaram Road,
Gingee - 604 202. ... Petitioner in both WPs

Vs.

The Commercial Tax Officer,
Gingee Assessment Circle,
Gingee, Villupuram Dist. ... Respondent in both WPs

Common Prayer:- Writ Petitions filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the impugned proceeding dated 7.11.2012 issued by the respondent herein in TIN: 33864740736/2010-2011 and TIN: 33864740736/2011-2012 respectively and quash the same as issued contrary to the principles of natural justice and further direct the respondent to consider the requests made by the petitioner in its objections dated 2.7.2012, 24.7.2012, 11.8.2012 and 30.10.2012 for providing copies of the documents, granting cross examination and also for accepting the revised returns filed by the petitioner and thereafter to complete the assessment after giving reasonable opportunity to the petitioner.

(In both WPs)
For Petitioner : Mr.P.Rajkumar

For Respondent : Mr.M.Hariharan
Government Advocate



COMMON ORDER

These writ petitions challenge notices dated 07.11.2012 issued by the assessing officer in respect of the assessment periods 2010-2011 and 2011-2012 in terms of the provisions of the Tamil Nadu Value Added Tax Act, 2006 (in short 'Act').

2.The petitioners' monthly returns for the aforesaid periods were taken up for assessment and the Assessing Authority issued a notice alleging that, on verification of records available with the department, it was noticed that there were sales details available in Annexure-2 of third party dealers that were not reflected in Annexure-1 i.e., purchase details by the petitioner. The petitioner sought particulars of the transactions as alleged including copies of the tax invoices stated to be available with the department as well as other details. It also specifically sought an opportunity to enable it to cross examine the third party dealers. The requests of the petitioner are certainly reasonable as an assessment was proposed to be made, adverse to its interests, based on such material. It is thus necessary that such records/opportunity be provided to the assessee in order to enable it to respond to the allegations made. In the instant case, this has not been done.

3.Thus, I direct the Revenue to supply the details of the alleged transactions, the Annexure-2 of the Returns filed by the third party dealers, tax invoices and all other details in this connection, in their possession. The petitioner will be furnished an opportunity to cross examine the dealers concerned as well. This exercise will be completed within a period of three weeks from date of receipt of copy of this order and thereafter orders of assessment be passed within a period of four weeks, after hearing the petitioner.

4.Both writ petitions are allowed in the aforesaid terms. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

The Commercial Tax Officer,
Gingee Assessment Circle,
Gingee, Villupuram District.



+1cc to the Special Government Pleader sr.80798
+1cc to Mr.Rajkumar, Advocate Sr.80340

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and
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srg 26/11/2019