IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2019

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THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.Nos.26751, 26755 & 26756 of 2019
and
W.M.P.Nos.26141, 26143 & 26146 of 2019

Daon Auto Parts (India) Pvt Ltd.,
(formerly known as Hwaseung
Autoparts (India) Pvt Limited),
New No.54, Old No.100 Mevalurkuppam Village,
Thandalam Post,
Sriperambudur Taluk - 602105.
... Petitioner in all WPs

Vs.

Assistant Commissioner (ST),
Sriperambudur Assessment Circle,
Varadarajapuram - 602103.
... Respondent in all WPs

Common Prayer : Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the respondent in the proceedings arising out of the impugned order TIN 33701665051/2013-14, TIN 33701665051/2014-15, TIN 33701665051/2015-16 respectively, dated 09.08.2019 and quash the same consequentially direct the respondent to dispose the Rectification Petition filed by the petitioner by verifying the documents and data, already on record after granting an opportunity to submit further document by affording an opportunity of personal hearing.

(Prayer amended as per order dated 24.09.2019 in WMP.Nos.27605, 27607 & 27609 of 2019 in WP.Nos.26751, 26755 & 26756 of 2019)

For Petitioner : Mr.J.Arasi Ponmalar
(in all WPs)

For Respondent : Mr.Hariharan
Additional Government Pleader (Taxes)
(in all WPs)

C O M M O N O R D E R

These three writ petitions are filed challenging the order of the respondent dated 09.08.2019 with a consequential relief to direct the respondent to dispose the Rectification Petition filed by the petitioner by verifying the documents and data, already on record after granting an opportunity to submit further document and also by affording an opportunity of personal hearing.

2. Heard both sides and perused the materials placed before this Court.

3. It is seen that in respect of Assessment Years 2013-14, 2014-15 and 2015-16, orders of assessment were made on 25.06.2019.

4. The grievance of the petitioner is that the Assessing Officer made such orders of assessment, without considering the reply given by the petitioner on various instances and documents filed by the petitioner along with those replies. It is also the grievance of the petitioner that the Assessing Officer has not called upon the petitioner to produce any documents at any point of time before concluding the assessment and therefore, the assessment orders are liable to be rectified. Ventilating such grievance, the petitioner has approached the respondent and filed the Rectification Petitions under Section 84 of the Tamil Nadu Value Added Tax Act, 2006. Those Rectification Petitions were disposed of by the impugned order dated 09.08.2019, simply by holding that such petition cannot be considered because due opportunity had been afforded to the petitioner in the earlier stage.

5. Perusal of the contentions raised in the Rectification Petitions dated 20.07.2019 and the orders dated 09.08.2019 disposing those Rectification Petitions would show that the first respondent has not adverted to the grounds raised in the Rectification Petitions, by giving his independent reasonings and findings. The respondent on the other hand, has chosen to dispose the Rectification Petitions only by saying that before the Assessing Officer, the petitioner was given due opportunity. I do not think that the respondent is justified in simply rejecting the Rectification Petitions without adverting the points

raised in the Rectification Petitions and giving his own reasons and findings.

6. Therefore, this Court is inclined to remit the matter back to the respondent for considering the Rectification Petitions once again and pass orders on merits and in accordance with law, after giving due opportunity to the petitioner. Thus, writ petitions are allowed and the impugned orders are set aside. Consequently, the matter is remitted back to the Assessing Officer to pass fresh orders on the Rectification Petitions after giving due opportunity of personal hearing to the petitioner. Such exercise shall be done by the respondent within a period of six weeks from the date of receipt of a copy of this order. It is also made clear that this Court is not expressing any view on the merits of the claim made by the petitioner in respect of the orders of assessment already made, as it is for the respondent to consider and decide. No costs. Connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//
Sub Assistant Registrar

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To

Assistant Commissioner (ST),
Sriperambudur Assessment Circle,
Varadarajapuram - 602103.

+1cc to Mr.K.Senghuvan , Advocate SR.No. 87615
+1 cc to Spl Government Pleader(Taxes) Sr.No. 87872
W.P.Nos.26751, 26755 & 26756 of 2019

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