IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 10.07.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.Nos.4391 & 4392 of 2017
and
W.M.P.Nos.4581 & 4582 of 2017

M/s.S.M.K.Contractors,
Rep. by its Proprietor,
No.197-B, Solaippan Street,
Old Washermenpet,
Chennai - 600021. ...Petitioner in both WPs

Vs

Assistant Commissioner (CT),
Royapuram Assessment Circle,
No.20, Gummal Amman Koil Street,
Tondiarpet, Chennai - 600081. ...Respondent in both WPs

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, calling for the records of respondent for the assessment proceedings in R.C.632/2016 (2013-14) and R.C.632/2015 (2014-15) dated 31.01.2017 and quash the same as illegal and direct the respondent to furnish the details of informations relating to mismatch details obtained from the departmental Website for the mismatch of purchases and pass fresh orders in this case after providing an opportunity of personal hearing based on the various judicial pronouncements of this Court.

For Petitioner : Mr.C.Baktha Siromoni
(in all WPs)

For Respondent : Mrs.Dhanamadhri, GA
(in all WPs)

COMMON ORDER

The assessment orders pertaining to the assessment years 2013-2014, 2014-2015 are under challenge in the present writ petitions.

2. The main grounds raised by the petitioner herein is that the Assessing Officer had taken into account the total turnover

of the petitioner for the purpose of assessment, which is impermissible, in view of Section 5 of the TNVAT Act, which provides that the transaction on the commodities involved in the execution of the works contract alone should be taken into account.

3. Since the submission of the learned counsel for the petitioner is that the total tax has been taken into account for the purpose of assessment, it would be appropriate that this issue may be remanded back to the respondent herein for a fresh consideration, after giving an opportunity to the petitioner to raise his objections. While conducting the proceedings, the respondent herein shall give due opportunity of personal hearing to the petitioner herein to raise his objections and shall consider the same, in case any objections are filed. The respondent shall endeavor to complete the assessment proceedings for the years 2013-2014, 2014-2015, within a period of three months from the date of receipt of the petitioner's objections, or in the absence of any such objections, from the date of receipt of copy of this order.

4. Accordingly, the writ petitions stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

hvk

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Assistant Commissioner (CT),
Royapuram Assessment Circle,
No.20, Gummal Amman Koil Street,
Tondiarpet, Chennai - 600081.

+1cc to the Special Govt.Pleader (Taxes),
vide SR.No. SR.No.59382

W.P.Nos.4391 & 4392 of 2017
and
W.M.P.Nos.4581 & 4582 of 2017

Kak(09/10/2019)