IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2019

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.Nos.33998, 34000, 34002, 34004 & 34006 of 2018
WMP.Nos.39474, 39478, 39480, 39482 & 39484 of 2018

V.Mani
Partner
Tvl.SSM Builders and Promoters ...Petitioner

--Vs--

The Assistant Commissioner (ST) (FAC),
Thirukhazhukundram Assessment Circle,
No.42, Wahab Nagar,
Thirukhazhukundram-603 109 ... Respondent

Prayer: Writ Petitions filed under Article 226 of the Constitution of India, to issue a Writ or order of direction or any other Writ in the nature Writ of Certiorarified Mandamus, calling for the records relating tot he Assessment Order passed by the respondent by order dated 31.10.2018 in TIN No.33751608327 & 33541601895, 33751608327, 33541601895, 33541601895 for the A.Y.2012-13 to 2016-17, quash the same and consequently direct the respondent to consider the objections filed by the petitioner vide letter dated 24.09.2018, 24.09.2018, 24.09.2018, 24.09.2018, 24.09.2018 and give opportunity of personal hearing and conduct fresh proceedings.

For Petitioner : Ms.K.Swetha
for M/s.GR Associates

For Respondents: Mr.M.Hariharan
Additional Government Pleader

O R D E R

The petitioner is a dealer on the file of the respondent/Assessing Officer and challenges orders of assessment for the periods 2012-13 to 2016-17 all dated 31.10.2018, framed in terms of the Tamil Nadu Value Added Tax Act, 2006 (in short 'Act'), on the ground of non-deduction of Tax at source (TDS) on sub-contracts in terms of Section 13 of the Act.

2. Pre-assessment notices were issued to the petitioner, in response to which the petitioner appears to have filed detailed objections on 24.09.2018 and 20.11.2018.

3. The order of assessment, however, is cryptic and the operative portion reads as follows:

> Accordingly a notice was issued to the dealers and their objections were invited. Though sufficient opportunity was allowed the dealers have filed incorrect and incomplete supporting documents. It is presumed that they have none to file the correct and complete documents. Hence the assessments proposed in this office notice are confirmed.

4. Evidently, an order of this nature, sans any reasoning or discussion, is unacceptable in law. Moreover, the detailed objections of the petitioner dated 24.09.2019 and 20.11.2018 have not been adverted to or considered by the Assessing Authority. The presumption that the petitioner has no appropriate supporting documents or objections to offer is arbitrary, particularly since there is no counter denying the specific averment tha the written submissions have, indeed been filed.

5. In the light of this discussion as aforesaid, I have no hesitation in setting aside the impugned order of assessment. The petitioner will appear before the Assessing Officer on Thursday, the 12th of December at 10.30 a.m., with a copy of the objections already filed and additional objections, if he so desires. No further notice need be issued in this regard. After hearing the petitioner in person and consideration of the submissions made, both written and oral as well as documents, if any, speaking orders of assessment on merits and de novo on merits shall be passed within a period of six weeks from date of conclusion of personal hearing.

6. These writ petitions are allowed in the above terms. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(CS-III)

//True copy//

Sub Assistant Registrar

ska

To

The Assistant Commissioner (ST) (FAC),
Thirukhazhukundram Assessment Circle,
No.42, Wahab Nagar,
Thirukhazhukundram-603 109

+5cc to M/s.GR Associates, Advocate SR.No.100209 to 100213

+1cc to Special Government Pleader SR.No.101309

W.P.Nos.33998, 34000, 34002,
34004 & 34006 of 2018
WMP.Nos.39474, 39478, 39480
39482 & 39484 of 2018

CP(CO)

GMY(10/12/2019)