BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **11.07.2019**

CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P(MD)Nos.16027 to 16030 of 2013
and M.P(MD)Nos. 1, 1, 1 and 1 of 2013

In W.P(MD)No.16027 of 2013:

Tvl.STCL Limited,
Rep. by its Sales Officer
D.Sethuraman ... Petitioner

Vs.

The Assistant Commissioner (CT),
Bodinayakanur. ... Respondent

PRAYER in W.P(MD) No.16027 of 2013: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified Mandamus calling for the records on the file of the respondent herein in CST No:137601/2007-2008 dated 29.06.2012 quash the same as violative of principles of natural justice, illegal, unsustainable and direct the respondent to pass order afresh after considering the petitioner's objections and statutory declaration forms.

In W.P(MD)No.16028 of 2013:

Tvl.STCL Limited,
Rep. by its Sales Officer
D.Sethuraman ... Petitioner

Vs.

The Assistant Commissioner (CT),
Bodinayakanur. ... Respondent

PRAYER in W.P(MD) No.16028 of 2013: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified Mandamus calling for the records on the file of the respondent herein in TIN No.33755080248/2007-2008 dated 29.06.2012, quash the same as violative of the principles of natural justice, illegal, unsustainable and direct the respondent to pass orders afresh aftr considering the petitioner's objections.

In W.P(MD)No.16029 of 2013:

Tvl.STCL Limited,
Rep. by its Sales Officer
D.Sethuraman ... Petitioner

Vs.

The Assistant Commissioner (CT),
Bodinayakanur. ... Respondent

PRAYER in W.P(MD) No.16029 of 2013: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified Mandamus calling for the records on the file of the respondent herein in CST No:137601/2008-2009 dated

29.06.2012 quash the same as violative of principles of natural justice, illegal, unsustainable and direct the respondent to pass order afresh after considering the petitioner's objections and statutory declaration forms.

In W.P(MD)No.16030 of 2013:

Tvl.STCL Limited,
Rep. by its Sales Officer
D.Sethuraman ... Petitioner

Vs.

The Assistant Commissioner (CT),
Bodinayakanur. ... Respondent

PRAYER in W.P(MD) No.16030 of 2013: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified Mandamus calling for the records on the file of the respondent herein in TIN No.33755080248/2008-2009 dated 29.06.2012, quash the same as violative of the principles of natural justice, illegal, unsustainable and direct the respondent to pass orders afresh aftr considering the petitioner's objections.

In all the writ petitions:

For Petitioner : Mr.A.Chandrasekaran
For Respondent : Mrs.J.Padmavathy Devi
Special Government Pleader

COMMON ORDER

The petitioner challenges four(4) orders of assessment in respect of the periods 2007-2008 and 2008-2009 passed under the provisions of the Tamil Nadu General Sales Tax, 1956 and Tamil Nadu Value Added Tax Act, 2006.

2. The Assessing Authority has issued pre-assessment notices dated 20.12.2011 calling for objections to be filed to the proposals contained therein within 15 days from receipt of the notices. In reply, the petitioner has filed objections dated 15.03.2012, receiving acknowledgements for the same from the respondents on 20.03.2012.

3. Despite opportunity granted, no counter has been filed refuting the receipt of the objections dated 15.03.2012 by the Assessing Authority.

4. While this is so, the impugned orders have come to be passed on 29.06.2012 wherein the proposals contained in the pre-assessment notices have been confirmed simply stating that no objections have been filed by the dealer. This is factually incorrect.

5. A glance at the objections filed reveals that the petitioner has, in addition to raising various contentions objecting to the pre-assessment proposals, also submitted C-forms which have also not been taken into consideration.

6. It is imperative that orders of assessment are framed in consonance not only with the principles of law but also with the

principles of natural justice. The Principal Commissioner/Commissioner, Commercial Taxes Department has been, from time to time issuing Circulars advising the departmental officials to complete assessments strictly in compliance with the provisions of natural justice. In some of the Circulars, the officials are directed to afford opportunity of personal hearing even if there is no such request by the dealer. Thus, the impugned assessment orders, having not afforded personal hearing and not considered the written objections of the petitioner, are contrary to departmental circulars and are quashed. The respondent is directed to re-do the same in accordance with law and in line with the principles of natural justice.

7. Seeing as the assessments relate to the periods 2007-2008 and 2008-2009, I am inclined to order expeditious conclusion of the *de novo* proceedings. The petitioner is directed to appear before the Assessing Authority on Wednesday i.e on 24.07.2019 at 10.30 a.m along with all materials in support of its stand. No further notice need be issued to the petitioner in this regard. After hearing the petitioner and considering all materials filed, the Assessing Authority shall frame orders of assessment *de novo* within a period of four weeks from the conclusion of personal hearing.

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

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

To
The Assistant Commissioner (CT),
Bodinayakanur.

+1cc to Mr.A.CHANDRASEKAR, Advocate, SR.No. 74802
+1cc to M/s.Special Government Pleader,SR.No.75080

W.P(MD)Nos.16027 to 16030 of 2013
and M.P(MD)Nos. 1, 1, 1 and 1 of 2013
11.07.2019

CM
KK/SAR/22.07.2019/3P-4C