BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.03.2019

CORAM

THE HONOURABLE **MR.JUSTICE. ABDUL QUDDHOSE**

W.P(MD).Nos.17332,17333,17334 of 2015 and
13966,13967,13968 of 2016
and
M.P(MD) Nos.1,1,1 of 2015 and
WMP(MD)10391,10392,10393 of 2016

S.R.Ravi
Dealers in Oil
98, Big Bazaar
Pattukottai- 614 601
Thanjavur District : Petitioner in all W.P(MD)s

Vs.

The Commercial Tax Officer(CT)
Pattukottai -I Assessment Circle
CT Buildings,
Pattukottai,
Thanjavur District : Respondent in all W.P(MD)s

Common Prayer:

Writ Petitions are filed under Article 226 of the Constitution of India, praying this Court a Writ of Certiorari, calling for the records of the Respondent in TIN NOS.33874160428/2011-2012, dated 26.08.2019, 33874160428/2012-2013, dated 26.08.2019, 33874160428/2013-2014, dated 26.08.2019, 33874160428/2011-2012, dated 09.05.2016, 33874160428/2012-2013, dated 09.05.2016, 33874160428/2013-2014, dated 09.05.2016 and quash the same as illegal, arbitrary and against the provisions of the Act.

For petitioner(in all Wps) : Mr.B.Rooban
for K.Soundararajan

For Respondents(in all Wps) : Mr.N.Shanmuga Selvam
Additional Government Pleader

COMMON ORDER

Since the issue involved in all these writ petitions is one and the same, they have been clubbed together, heard together and are being disposed of by this common order

2. The instant writ petitions have been filed challenging the respective impugned assessment orders passed by the respondent. It is the case of the petitioner that in all the assessment orders the petitioner has challenged the assessment under section 27 of TN VAT act 2006 on the ground that the other end sellers have wrongly quoted the TIN number of the petitioner and they have also suppressed the sales. But, it is the case of petitioner that all the purchases made by them from the respective other end sellers have been duly reported by them. Primarily based on web report, the impugned assessment orders have been passed without affording adequate opportunity to the petitioner by granting the right of personal hearing. It is settled law that personal hearing has to be afforded to the petitioner before passing the assessment orders. Even though it is the case of the respondent that notice for personal hearing was issued to the respective petitioner, but the same was not availed by the petitioner. It is the case of the petitioner that objections were filed by the petitioner only after the date fixed by the respondent for personal hearing. According to the petitioner without considering the objections raised by him, the impugned assessment orders have been passed against him. Further it is the case of the petitioner that primarily based on the web report alone, the impugned assessment orders have been passed, which is not an independent source of information.

3. It is settled law though various judicial pronouncements of this Court that personal hearing will have be afforded to the dealer before the assessment order is passed under section 27 of the TNVAT Act 2006. It is also settled law that while passing the assessment order, the respondent shall not reverse the input tax credit, on the ground that the other end sellers, who are unregistered sellers/dealers have not filed the returns or paid taxes . In the instant case according to the petitioner he has reported all the purchases effected by him from the other end sellers and there is no suppression of purchases. This being the case, the petitioner ought to have been given adequate opportunity by the respondent before passing the impugned assessment orders.

4. For the foregoing reasons, this Court is of the considered view that the impugned assessment orders which are the subject matter of challenge in W.P(MD) Nos. 17332,17333,17334 of 2015 and 13966,13967,13968 of 2016 are hereby quashed and the matter is remanded back to the respondent for fresh consideration, in accordance with law and the respondent, after giving adequate opportunity to the petitioner shall pass separate final orders in accordance with law, after granting right of personal hearing to the petitioner within a period of eight weeks from the date of receipt of a copy of this order in the light of the decision in

Infiniti Wholesale Ltd Vs Assistant Commissioner (CT) reported in (2015)55 taxmann. Com 64(Madras) .

5.With the aforesaid directions, all these writ petitions are disposed of. No Cost. Consequently connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (ADI)

// True Copy //

Sub Assistant Registrar(CS)

To

The Commercial Tax Officer(CT)
Pattukottai -I Assessment Circle
CT Buildings,
Pattukottai,
Thanjavur District

+1 CC to M/s.SPL GP (SR-57188,57189,57184,57186,57185[F] dated 27/03/2019)
+1 cc to Mr.K.Soundararajan , Advocate SR.No.56752

aav

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