BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 21.11.2019
CORAM:
THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P.(MD) No.15798, 15800, 15802, 15803, 15805 and 15808 of 2019
and
W.M.P.(MD).Nos.12543, 12546, 12551, 12553, 12559, 12562 of 2019
in W.P.(MD).Nos.15798, 15800, 15802, 15803, 15805 and 15808 of 2019
and
W.M.P.(MD).No.14389 of 2019
in W.P(MD).No.15808 of 2019

M/s.Rani Stores Super Market
rep. by its Proprietor
536 V.E.Road,
Tuticorin. ... Petitioner in all W.Ps

vs.

The Commercial Tax Officer (Main)-II
Thoothukudi. ... Respondent in all W.Ps

PRAYER in W.P.(MD).15798/2019:

Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Certiorari to call for the records of the respondent in his proceedings in TIN:333058418000/2010-2011, quash the impugned assessment order dated 21.06.2019 passed therein.

PRAYER in W.P.(MD).15800/2019:

Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Certiorari to call for the records of the respondent in his proceedings in TIN:333058418000/2011-2012, quash the impugned assessment order dated 21.06.2019 passed therein.

PRAYER in W.P.(MD).15802/2019:

Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Certiorari to call for the records of the respondent in his proceedings in TIN:333058418000/2012-2013, quash the impugned assessment order dated 21.06.2019 passed therein.

PRAYER in W.P.(MD).15803/2019:

Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Certiorari to call for the records of the respondent in his proceedings in TIN:333058418000/2014-2015, quash the impugned assessment order dated 21.06.2019 passed therein.

PRAYER in W.P.(MD).15805/2019:

Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Certiorari to call for the records of the respondent in his proceedings in TIN:333058418000/2013-2014, quash the impugned assessment order dated 21.06.2019 passed therein.

PRAYER in W.P.(MD).15808/2019:

Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Certiorari to call for the records of the respondent in his proceedings in TIN:333058418000/2015-2016, quash the impugned assessment order dated 21.06.2019 passed therein.

For Petitioner : Mr.S.Raja Jeya Chandra Paul(in all Wps)
For Respondent : Mrs.J.Padmavathy Devi
Special Government Pleader (in all Wps)

C O M M O N O R D E R

Challenge to the writ petitions is to the assessment orders passed by the respondent in TIN:333058418000, dated 21.06.2019, for the assessment years 2010-11 to 2015-16.

2.In the impugned orders, the Assessing Authority has found that the dealer has failed to avail the opportunity of personal hearing given on 21.01.2019 and even on 20.02.2019, but sought for extension for deferring the revision proceedings by a letter dated 22.06.2019, in view of the circular No.3/2019, dated 18.01.2019. In spite of the same, the Assessing Authority proceeds to consider the case on the basis of objections. He found that the dealer indulged in sales suppression and failed to produce relevant documents such as purchase bills, Bank passbooks, corresponding sales bills counter foil copies and cheque books and thus refused to accept the reply and confirmed the proposal.

3.Per contra, the documents produced before this Court go to show that on 20.02.2019, the petitioner had produced all the original Purchase Bills, all original sales bills, Ledger (certified by statutory charted Accountant), Journal (certified by statutory charted Accountant), Bank Statements, cheque books, Stock Register, Input Tax adjustment accounts, balance sheet, IT Returns and Orders, Trading and Profit & Loss Account, balance sheet from the year 2012-13 to 2015-16 and sought for verification report of the alleged sales, which are not accounted in the accounts. In view of the Circular No.3/2019 of the Commissioner of State Tax, dated 18.01.2019, the respondent received invoices for the years 2012-13 to 2015-16, acknowledged the same. The acknowledgment states that "Two bags of Original Invoices for the period from 2012-13 to 2015-

16 were received, subject to verification." In that event, the respondent should have rendered his finding on the basis of objections, sales bills and other available records. However, on the contrary to the acknowledgement dated 20.02.2019, the impugned order states that the petitioner failed to avail the personal hearing and has not filed his reply. Such a finding goes against his own records. Therefore, I do find that principles of natural justice were not strictly followed by the respondent in this matter.

4.In that view of the matter, this Court is of the considered view that one more opportunity can be given to the petitioner to defend his case in the appeal. Accordingly, the impugned orders passed by the respondent in TIN:333058418000, dated 21.06.2019, for the assessment years 2010-11 to 2015-16 are set aside and the matter is remitted back to the respondent for fresh consideration. However, considering the quantum of demand as well as time consumption, the petitioner is directed to deposit a sum of Rs.5,50,000/- (Rupees five lakhs fifty thousand only), before the Assessing Authority along with objections and records, within a period of three weeks. As discussed above, the respondent is directed to consider the objections and records filed by the petitioner and pass appropriate orders, after affording an opportunity of personal hearing within a period of four weeks from the date of receipt of the objections.

5.Accordingly, all the writ petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

Vs

To

The Commercial Tax Officer (Main)-II
Thoothukudi.

+1 CC to Mr.S. RAJA JEYA CHANRA PAUL, Advocate (SR-100191[F] dated 21/11/2019)
+1 CC to Spl GP (SR-100559[F] dated 22/11/2019)

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