BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **25.07.2019**
CORAM:

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**

W.P.(MD)No.11986 to 11990 of 2015
and
M.P.(MD)No.1,1,1,1 and 1 of 2015

Tvl.Goodwill Team Papers Limited,
Represented by its Director,
P.Rajendran, S/o.Pandiarajan,
89/1-A, Team Garden,
Uthappanaickanur, Usilampatti Taluk,
Madurai District - 626 537. ...Petitioner in all petitions

/Vs./

1.The Commissioner of Commercial Taxes,
O/o.The Principal and Special Commissioner of Commercial Taxes,
Ezhilagam, Chepauk,
Chennai - 600 005.

2.The Assistant Commissioner (CT),
Thirumangalam Assessment Circle,
No.15/91, Sonalar Street,
Jawahar Nagar, Thirumangalam,
Madurai District - 627 811. ... Respondent in all petitions

COMMON PRAYER:- Writ Petitions - filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned proceedings of the 2nd respondent in TIN:33125041455/2009-10, 2010-11, 2011-12, 2012-13, 2013-14 dated 28.05.2015 and quash the same and to consequently direct the 2nd respondent to re-do the assessment afresh after giving adequate opportunity to the petitioner.

For Petitioner : Mr.B.Rooban
For Respondent : Mr.A.Thiyagarajan
Government Advocate
(in all petitions)

COMMON ORDER

The petitioner challenges orders of assessments in terms of the TamilNadu Value Added Tax Act, 2006, [in short 'Act'], for the periods 2009-10, 2010-11, 2011-12, 2012-13 and 2013-14, all dated

28.05.2015. Learned counsel for the petitioner has raised several averments and grounds in the writ petitions assailing the orders on merits. However, one that goes to the root of the matter is the violation of principles of natural justice. The petitioner filed objections in response to the pre-assessment proposals on 27th May 2015. In conclusion, the petitioner states therein as follows:

> *'In fine we kindly request you to reconsider all the above facts and judicial precedents, accept our contentions and thereby your entire proposal along with penalty may kindly be dropped. Otherwise, provide us the copies of the inspection proposal, conduct a detailed enquiry in our presence, record a statement and after a providing the same, we may be granted an opportunity of personally being heard and after that we may also be permitted to file our additional objections and till all our requests are complied with by you, your entire proposal along with penalty may kindly be deferred.'*

2. Thus, a request was made by the petitioner for furnishing of copies of the inspection proposals and conduct of detailed enquiry thereafter along with opportunity of personal hearing being afforded. The objections sent at 06.00 p.m., on 27.05.2015 have, as per the postal track enclosed, been received by the respondent on 29.05.2015.

3. Curiously, in the impugned orders dated 28.05.2015, the respondent referred to the same stating that it has been received on 28.05.2015 itself. Be that as it may, and not dwelling upon the apparent contradiction in the dates, the assessments are seen to have been completed in violation of principles of natural justice, *sans* an opportunity of personal hearing. Moreover, the statement recorded in the course of inspection by the Enforcement Wing Officials has been relied upon, with the officer expressing the view that the assessee cannot be permitted to go back upon statement recorded.

4. It is settled law that the veracity or otherwise of a statement recorded in the course of inspection should be gauged only in the light of the other materials found / produced at the time of inspection / assessment. Thus, the assessing authority will take into account all materials found at the time of inspection including the contents of the statements and all other materials produced by the assessee to buttress its stand, in finalizing an assessment. The impugned assessment is thus, in the light of the above discussion, set aside and will be re-done in line with the principles of natural justice and in accordance with law.

5. The writ petitions are allowed. The assesssing authority will entertain the assessee/authorized representative on **20.08.2019 at 10.30 a.m.,** and extend personal hearing. No further notice need

be issued to the petitioner in this regard. After affording adequate opportunity of personal hearing and considering all materials that may be produced by the assessee along with materials that are already available on record, the assessing authority will frame an assessment *de novo* within a period of six weeks from date of conclusion of personal hearing. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS-III)

/TRUE COPY/

Sub Assistant Registrar

To

1.The Commissioner of Commercial Taxes,
O/o.The Principal and Special Commissioner of Commercial Taxes,
Ezhilagam, Chepauk,
Chennai – 600 005.

2.The Assistant Commissioner (CT),
Thirumangalam Assessment Circle,
No.15/91, Sonalar Street,
Jawahar Nagar, Thirumangalam,
Madurai District – 627 811.

+1 CC to M/s.B.ROOBAN, Advocate (SR-77882[F] dated 26/07/2019)

+1 CC to M/s.SPL GP (SR-77970[F] dated 26/07/2019)

Common Order made in
W.P.(MD)No.11986 to 11990 of 2015
Dated:
25.07.2019

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JM/19.08.2019/3P/5C