BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.08.2019

CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P(MD)Nos.2498 and 2499 of 2016
and
W.M.P.(MD)Nos.2211 and 2212 of 2016

Tvl.Selva Engineering Automation,
Represented by its partner,
M.Sangareswari, aged about 71 years,
W/o.P.Madasamy,
No.78/K, Ramamoorthy Road 7th Street,
Virudhunagar-626 001. ... Petitioner in both 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 Commercial Tax Officer-II,
Virudhunagar-II Assessment Circle,
Commercial Taxes Building,
Madurai Road,
Near 3V College,
Virudhunagar – 626 001 ... Respondents in both petitions

COMMON PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of writ of Certiorarified Mandamus, to call for the records pertaining to the impugned proceedings of the 2nd respondent in TIN.33595741488/2013-14 dated 26.11.2015 and TIN.33595741488/2014-15 dated 04.11.2015 and quash the same and to direct the second respondent to redo the assessment afresh after giving adequate opportunity to the petitioner.

For Petitioner : Mr.R.Veeramanikandan

For R1 to R5 : Mr.R.Murugan
Additional Government Pleader
(in both petitions)

COMMON ORDER

Two assessments are impugned before me, for the periods 2013-14 and 2014-15 under the provisions of the Tamil Nadu Value Added Tax Act, 2006, (in short 'Act').

2. The petitioner had admittedly effected purchases intrastate, but according to it, it has not effected any sales intrastate but only interstate. For the periods in question (2013-14 and 2014-15), proceedings for assessment of turnover of amount of Rs.5,57,400/- and Rs.51,60,000/-, respectively, in terms of Central Sales Act were pending at the time when the writ petitions were filed. The petitioner is unable to confirm today as to whether the proceedings are yet pending or have been completed.

3. Be that as it may, the petitioners' contention is that its business has been conducted only interstate and there have been no domestic / intrastate sales at all during the relevant periods.

4. While this is so, pre-revision notices were issued by the authorities calling upon the petitioner to show cause as to why the purchases not be brought to tax as suppressed turnover.

5. Admittedly, the petitioner has not replied to the pre-revision notices. Equally so, the Assessing Authority has also not called upon the petitioner to appear for a personal hearing. In counter the respondent addresses the allegation of violation of principles of natural justice, pointing out that no request was made for personal hearing. However, even the Guidelines issued by the Special Commissioner and Commissioner, Commercial Taxes make it clear that personal hearing is to be afforded as a norm even in those cases, where no specific request for the same is made.

6. In the light of the discussion above, the impugned orders are set aside. The petitioner will appear before the assessing Authority on 19.08.2019 at 10.30 a.m., along with its written objections to the pre-assessment notices and all supporting documents. After considering the aforesaid and after hearing the petitioner, orders of assessment shall be passed by the Assessing Authority de novo and in accordance with law. It is made clear that no further notice need be issued in respect of the hearing fixed on 19.08.2019.

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

Sd/-
Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Commissioner of Commercial Taxes,
O/o The Principal and Special Commissioner of
Commercial Taxes, Ezhilagam, Chepauk,
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Virudhunagar – 626 001

+1 CC to M/s.SPL GP (SR-79966[F] dated 06/08/2019)

+1 CC to M/s.B.ROOBAN, Advocate (SR-80014[F] dated 06/08/2019)

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