



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 02.03.2020
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

WEB COPY

W.P.Nos.3149 to 3152 of 2013
M.P.Nos.1 to 1, 2 to 2 and 3 of 2013

M/s.Arun Vyapar Udyog Ltd.
rep.by its Director Umesh Madan
No.101-A, Ellaya Mudali Street
Tondiarpet, Chennai
Now at
C Block No.804, Shivalaya Building,
Ethiraj Salai, Egmore,
Chennai-600 008.

... Petitioner in all the W.Ps.

Vs

The Commercial Tax Officer (Additional)
Tondiarpet Assessment Circle
Kuralagam Annexe
Chennai.

... Respondent in all the W.Ps.

W.P.No.3149 of 2013 filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari calling for the records relating to the impugned order in TNGST/1200643/2000-01 dated 31.12.2012 passed by the respondent and quash the same as illegal, without authority of law and violative of principles of natural justice.

W.P.No.3150 of 2013 filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari calling for the records relating to the impugned order in TNGST/1200643/2001-02 dated 31.12.2012 passed by the respondent and quash the same as illegal, without authority of law and violative of principles of natural justice.

W.P.No.3151 of 2013 filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari calling for the records relating to the impugned order in TNGST/1200643/2002-03 dated 31.12.2012 passed by the respondent and quash the same as illegal, without authority of law and violative of principles of natural justice.



W.P.No.3152 of 2013 filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari calling for the records relating to the impugned order in TNGST/1200643/2003-04 dated 31.12.2012 passed by the respondent and quash the same as illegal, without authority of law and violative of principles of natural justice.

For Petitioner : Mr.K.Jayachandran
For Respondent : Mr.A.N.R.Jayaprathap,
Government Advocate (Taxes)

COMMON ORDER

These writ petitions have been filed to quash the impugned proceedings of the respondent herein, as illegal, arbitrary and violative of the principles of natural justice.

2.Mr.A.N.R.Jayaprathap, learned Government Advocate (Taxes), takes notice for the respondent.

3.By consent of the learned counsel on both sides, the writ petitions are taken up for final disposal.

4.Though several grounds have been canvassed by the learned counsel for the petitioner in these writ petitions, the only ground which is required to be considered is that the respondent should have afforded an opportunity to the petitioner for cross-examination of the witnesses, viz. the sellers of the petitioner, which was relied upon by the Department, but the same was not complied with.

5.The learned Government Advocate appearing for the respondent has submitted that the documents secured from some of the dealers have been declared as bill traders and that the request of the petitioner for securing the witnesses for cross-examination is not possible at this length of time. A counter affidavit has been filed on behalf of the respondent in which it is stated that the dealers in their letter dated 08.08.2012 requested copies of the documents received from the Enforcement Wing and details of reply filed by the assessing authority and their request was considered and they were permitted to take xerox copies of the required documents in the presence of the assessing authority; that the same was communicated by letter



dated 12.10.2012, which was received by the dealers on 22.12.2012 and hence it cannot be stated that no opportunity has been given to the respondent.

6. Taking note of the submissions made on either side, the impugned orders are set aside and the matter is remanded back to the respondent for fresh consideration. The respondent is directed to furnish copies of the statements of witnesses, viz. the sellers of the petitioner and also the documents like cancellation of R.C., to the petitioner, within a period of two weeks from the date of receipt of a copy of this order, for which objections shall be filed by the petitioner within a period of two weeks therefrom. Thereafter, the Department shall pass appropriate orders on merits and in accordance with law, within a period of two weeks from the date of receipt of objections.

7. The writ petitions are disposed of accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

KM
To

The Commercial Tax Officer (Additional)
Tondiarpet Assessment Circle
Kuralagam Annexe
Chennai.

+1 cc to Mr.K.Jayachandran Advocate sr18081
+1 cc to Special Government Pleader sr18834

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and 3 of 2013

aa14/07/2020