IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.03.2020

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

Writ Petition Nos.6476 and 6477 of 2020
and WMP. Nos.7657 and 7660 of 2020

Tvl.Balakrishna Enterprises
rep. By its Partner
Janardhan P.Kini

...Petitioner in both W.Ps

Vs.

The Assistant Commissioner (ST),
Krishnagiri Assessment Circle - I,
Krishnagiri.

... Respondent in both W.Ps

PRAYER in W.P.No.6476 of 2020: PETITION filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus calling for the records on the file of the respondent in TIN No.33153302859/2014-15 dated 27.12.2019, quash the same and further direct the respondent to pass order afresh after proper mechanism is created as per the guidelines issued by this Hon'ble Court in the case of J.K.M. Graphics Solutions Private Limited V. Commercial Tax Officer, reported in (2017) 99 VST 343 and as contemplated in the Circular of the Commissioner of Commercial Taxes and after verifying the books of accounts of the petitioner and affording an opportunity to the petitioner to file their reply and objections.

PRAYER in W.P.No.6477 of 2020: PETITION filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus calling for the records on the file of the respondent in TIN No.33153302859/2015-16 dated 27.12.2019, quash the same and further direct the respondent to pass order afresh after proper mechanism is created as per the guidelines issued by this Hon'ble Court as contemplated in the Circular of the Commissioner of Commercial Taxes and after verifying the books of accounts of the petitioner and affording an opportunity to the petitioner to file their reply and objections.

For Petitioner : Mr.A.Chandrasekaran

For Respondent : Mr.M.Hariharan
Additional Government Pleader

C O M M O N O R D E R

Mr.M.Hariharan, learned Additional Government Pleader accepts notice for the respondent and is armed with instructions in these Writ Petitions. Hence, by consent, both the Writ Petitions are taken up for final disposal even at this stage.

2. The impugned assessments have been framed in terms of the provisions of the Tamil Nadu Value Added Tax Act, 2006 (in short 'Act') for the periods 2014-15 and 2015-16. The only issue involved is mismatch of transactions as per the returns of the petitioner when compared with the returns of the selling dealers. Though the Officer in the impugned order states that no objections have been filed to the pre-assessment proposals, there is a reply dated 25.11.2019 available on record with the acknowledgement of the Sales Tax Collection Inspector, Krishnagiri.

3. The petitioner has sought a months' time to produce the particulars. Despite having received the request made, the matters have not been re-posted for hearing and the impugned orders have been passed even without granting any personal hearing. Moreover, the pre-assessment notices do not specifically propose levy of penalty whereas the impugned orders levy penalty as well.

4. The issue on merits, prima facie, stands covered by a decision of this Court in J.K.M. Graphics Solutions Private Limited V. Commercial Tax Officer ((2017) 99 VST 343) and the Circular bearing No.3 of 2019 dated 18.01.2019 issued by the Special Commissioner, Commercial Taxes instructing the Assessing Officers to keep all issues of mismatch in abeyance till the constitution of a proper internal mechanism within the Commercial Taxes Department to address such matters.

5. In the light of the discussion aforesaid, the impugned orders are set aside and the Assessing Authority is directed to take up the assessments of two periods, viz, 2014-15 and 2015-16 to be re-done de novo in line with Circular No. 3 of 2019 dated 18.01.2019 issued by the Special Commissioner after

issuance of notice to the petitioner and affording an opportunity of personal hearing.

6. These Writ Petitions are disposed as above. No costs. Connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS-III)

// True Copy//

Sub Assistant Registrar

sl

To

The Assistant Commissioner (ST),
Krishnagiri Assessment Circle - I,
Krishnagiri.

+1cc to Mr.A.Chandrasekaran, Advocate, SR.No.22746.
+1cc to Government Pleader, SR.No.23011.

Writ Petition Nos.6476 and 6477 of 2020
and WMP. Nos.7657 and 7660 of 2020

PP(CO)
CSR: 20.03.2020