IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2020

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. Nos.9559 to 9563 and 9565 of 2020

ANABOND LTD
GM- Taxation and Corporate Affairs,
Mr.M.S.Abraham, No 36, Type- II,
Dr. VSI Estate, Tiruvanmiyur,
Chennai-41 ..Petitioner in all WPs

Vs.

The Assistant Commissioner (ST),
Tiruvanmiyur Assessment Circle,
Plot No.141, Ist Floor,
Yazhini Complex, Ist Main Road,
Burma Colony, Perungudi, Chennai-96.
..Respondent in all WPs

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying Writ of Certiorari to call for the records relating to the Assessment orders TIN/33390961146/ 2010-11, TIN/33390961147/ 2011-12, TIN/33390961147/ 2012-13, TIN/33390961147/ 2013-14, TIN/33390961147/ 2014-15 and TIN/33390961147/ 2015-16 Dated 30.9.2019 passed by the Respondent quash the same as a arbitrary and illegal..

For Petitioner : Mr.Joseph Prabakar

For Respondent : Mr.R.Swarnavel, Government Advocate

C O M M O N O R D E R

Heard Mr.Joseph Prabakar, learned counsel for the petitioner and Mr.R.Swarnavel, learned Government Advocate for the respondent.

2. Since the issue involved is short and since both learned counsel express consent, these writ petitions are disposed finally even at the stage of admission.

3. The impugned assessments have been passed for the periods 2010-11 to 2015-16 under the provisions of the Tamil Nadu Value Added Tax Act, 2006. Admittedly, the issue on merits relates to the reversal of Input Tax Credit (ITC) availed on the ground of alleged mismatch between the particulars circulated by the petitioner and the particulars available in the selling/purchasers return of turnover.

4. This issue had been considered by this Court in M/s.JKM Graphics Solutions Private Limited V. Commercial Tax Officer (99 VST 343) and the Court had directed that a suitable central mechanism be evolved within the Department to delve into various aspects of mismatch. Pursuant thereto, a Circular was issued by the Commissioner bearing No.3 of 2019 (Q1/39643/2018 dated 18.01.2019), wherein at paragraph (c) the Commissioner directs the Authorities to keep assessments involving the issue of mismatch in abeyance, however issuing pre-assessment notices in time in order that the assessments are kept alive until such time the central mechanism is put in place. The relevant portion of the said circular reads as follows:

> 'c) Where a proposal received from the Enforcement Wing/ISIC involves mismatch of ITC and other issues, the issues other than mismatch of ITC can be finalized by the assessing authority leaving the mismatch issue pending until a mechanism in this regard is evolved. However, notices shall be issued for all the cases involving mismatch of ITC to keep the issue alive until it is resolved and a list of such cases shall be maintained in the respective assessment circle, Territorial JC and DC offices. A monthly abstract of such cases along with revenue involved shall be prepared and made available to higher authorities for verification as and when called for.'

5. In the light of the aforesaid, there is no justification for the Assessing Officer in the present matters to have finalized the assessments themselves, being clearly contrary to the directive of the Commissioner. Hence, the impugned orders of assessment are set aside. The show causes notice dated 26.08.2019 setting out the pre-assessment proposal in regard to the issue of mismatch will keep alive this issue in the petitioners' cases until a suitable mechanism as directed by this court is formulated. Proceedings shall be initiated thereafter pursuant to the aforesaid

notices and finalised in due course and in accordance with law.

6. These Writ Petitions are allowed. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

The Assistant Commissioner (ST),
Tiruvanmiyur Assessment Circle,
Plot No.141, Ist Floor,
Yazhini Complex, Ist Main Road,
Burma Colony, Perungudi, Chennai-96.

+1cc to Special Government Pleader(Taxes), S.R.No.25215

W.P. Nos.9559 to 9563 and 9565 of 2020

SVI(CO)

KKV/03/08/2020