IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.09.2020

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. Nos.12962, 12965, 12968 and 12969 of 2020
and
WMP. Nos.16051, 16039, 16048 and 16050 of 2020,
16040, 16042, 16043 and 1647 of 2020

M/s. Ramajayam Electricals and Hardwares,
rep by its Proprietor - J.Srinivasan,
NO.201 Bazaar Street,
Kalavai - 632 506,
Vellore Dt.

.. Petitioner in all WPs

Vs.

The State Tax Officer,
Arcot, Vellore District.

.. Respondent in all WPs

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying to Writ of Ceriorari to call for the records on the file of the respondent in its impugned proceedings made in TIN No.33984581978/ 2012- 13 dated 25.07.2020 and TIN No.33984581978/ 2009-10, 2010-11 and 2011-12 dated 27.07.2020 respectively and quash the same.

For Petitioner : Mr.S.Rajasekar (for all WPs.)

For Respondent : Ms. G.Dhanamadhri
Government Advocate (for all WPs)

COMMON ORDER

Ms.Dhanamadhri, learned Government Advocate accepts notice for the respondent and is armed with instructions to proceed with the matter.

2. By consent, these Writ Petitions are disposed finally even at the stage of admission.

3. The challenge is to four orders of assessment passed under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (in short 'Act') for the periods 2009-10, 2010-11 and 2011-12

all dated 27.07.2020 and 2012-13 dated 25.07.2020. Admittedly, the issue involves the mismatch of particulars of sales as per Annexure 1 to the petitioners' returns as compared with Annexure 2 accompanying the returns filed by the selling dealers.

4. The petitioner was part of a batch of writ petitions challenging the issue of additions made to turnover on mismatch between selling and purchasing dealers returns that came to be decided by this Court in the case of JKM Graphics Sales Private Limited, Chennai Vs. the Commercial Tax Officer, Vepery Assessment Circle [99 VST 343]. This Court had set aside all impugned assessments, directing that an intra departmental mechanism be set up to address issues of mismatch, that are normally dealt with by different assessment circles. The mechanism is yet to be formulated.

5. The Special Commissioner, Commercial Taxes has also issued a Circular 3/2019 dated 18.01.2019, advising all Assessing Officers to keep assessments involving the issue of mismatch pending, till such time the aforesaid mechanism is put in place.

6. The impugned orders of assessment are thus clearly contrary to the principles of natural justice, the ratio of this Court decision in JKM Graphics Sales Private Limited (supra) and the circular of the Commissioner and are thus set aside.

7. Proceedings for assessment will stand revived as and when the appropriate mechanism is put in place and assessments shall be finalized de novo after issuance of notice to the petitioner and consideration of its submissions, in accordance with law.

8. These Writ Petitions are allowed in the aforesaid terms. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vs

To

The State Tax Officer,
Arcot, Vellore District.

+1cc to Ms.R.Hemalatha, Advocate, sr no.30560
+1cc Special Government Pleader(taxes) High Court Madras, sr.no.30629

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AJS(CO)
RMP(15/10/2020)