IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 08.09.2020

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

WP.Nos.38629 & 38630 of 2016
and
W.M.P.Nos.33087 to 33090 of 2016

Mrs.C.Aarthi
Tvl.Deepam Digital Colour Lab,
Rep. by its Proprietrix,
No.142, PJN Road,
Villupuram. ...Petitioner in both Wps

Vs

Assistant Commissioner, (CT),
Villupuram-II Assessment Circle,
Villupuram District. ...Respondent in both WPs

PRAYER in W.P.No.38629 of 2016: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records of the respondent in his proceedings in TIN No:33594702036/2013-14 dated 29.05.2015 and to quash the orders passed therein and to direct the respondent to pass fresh orders after giving an opportunity of personal hearing as provided under Section 22(4) and Section 22(5) of TNVAT Act and as per the recent judgments rendered by the Supreme Court of India in this matter and pass fresh orders after verification of the purchases of the petitioner as per accounts for the year 2013-14.

PRAYER in W.P.No.38630 of 2016: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records of the respondent in his proceedings in TIN No:33594702036/2014-15 dated 15.07.2015 and to quash the orders passed therein and to direct the respondent to pass fresh orders after giving an opportunity of personal hearing as provided under Section 22(4) and Section 22(5) of TNVAT Act and as per the recent judgments rendered by the Supreme Court of India in this matter and pass fresh orders after verification of the purchases of the petitioner as per accounts for the year 2014-15.

For Petitioner : Mr.C.Baktha Siromoni
(in both WPs)

For Respondents: Mr.R.Swarnavel
(in both WPs) Government Advocate

COMMON ORDER

Today, the matter is called through video conferencing. By consent of both the parties, both the Writ Petitions are taken up for final disposal.

2. The orders passed under Section 22(4) of the Tamil Nadu Value Added Tax Act for the assessment years 2013-14 and 2014-15 are put under challenge in these writ petitions.

3. Though the petitioner herein has raised several grounds challenging the assessment orders, the learned counsel for the petitioner would submit that the proposal notice dated 30.04.2015 was not properly served on them and therefore, they were not in a position to raise their objections. The impugned order states that the notice dated 30.04.2015, proposing the tax and penalty, was served by affixture in the last known place of business of the dealer on 15.05.2015, which is disputed by the petitioner.

4. I do not intend to go into the veracity of the service of notice, since a perusal of the grounds raised in these writ petitions may entitle the petitioner to have some valid objections and on this aspect, I am of the view that the petitioner could be extended with another opportunity to putforth their objections and thus, the ends of justice could be secured.

5. In the light of the above observations, the impugned orders dated 29.05.2015 and 15.07.2015 are set aside and the matters are remanded back to the Assessing Authority. The Assessing Authority is at liberty to issue a fresh notice of proposal on the petitioner for the assessment years 2013-14 and 2014-15 and on receipt of such a notice, the petitioner shall file their objections within the time stipulated in the notice. It is made clear that the Assessing Authority shall extend due opportunity of personal hearing to the petitioner and after considering the objections raised, if any, the Assessing Authority shall take further course of action in accordance with law, as expeditiously as possible.

6. Accordingly, both the Writ Petitions stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

Assistant Commissioner, (CT),
Villupuram-II Assessment Circle,
Villupuram District.

+1cc to the Spl. Government Pleader (Taxes), Sr.No.29386

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rr ii (13/10/2020)