IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.04.2021

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

Writ Petition Nos.9045, 9051 and 9053 of 2021
and
WMP Nos.9583, 9584, 9588, 9590, 9591 and 9593 of 2021

M/s.Game Shopee
represented by its Proprietor
Mr.R.Saravanan
36 A, Shop No.5, First Avenue,
Ashok Nagar,
Chennai - 600 003. ...Petitioner in the above W.Ps

Vs

The Commercial Tax Officer,
Kodambakkam Assessment Circle,
IV Floor, PAPJM Building Annex,
Greams Road,
Chennai - 600 006. ...Respondent in the above W.Ps

Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying to Writ of Certiorarified Mandamus to call for the impugned proceedings of the respondent in TIN/33971423906/2012-2013, 2013-14 and 2014-15 dated 4.9.2019 and the connected proceedings issued in TIN/33971423906/2012-2013, 2013-14 and 2014-15 dated 15.2.2021 and quash the same as the impugned proceedings are clearly contrary to law and against the provisions of the TNVAT Act and further direct the respondent to consider the Section 84 application filed by the petitioner on merits and in accordance with law.

For Petitioner : Mr.P.Rajkumar

For Respondent : Mr.ANR.Jayaprathap
Government Advocate

COMMON ORDER

Heard Mr.P.Rajkumar, learned counsel for the petitioner and Mr.ANR.Jayaprathap, learned Government Advocate, who accepts notice for the respondent and expresses his readiness to proceed with the matter finally even at the stage of admission. Hence, by consent of both sides, these Writ Petitions are disposed finally at this stage.

2. The challenge is to three orders of assessment for the periods 2012-13, 2013-14 and 2014-15, all dated 04.09.2019, passed in terms of the provisions of the Tamil Nadu Value Added Tax Act, 2006 (in short 'Act') along with rejection of applications filed under Section 84 of the Act seeking rectification, all dated 15.02.2021.

3. Though grounds have been raised on the merits of the matter, an argument has been made before me on the aspect of violation of principles of natural justice. It is seen from the impugned orders of assessment that the Assessing Authority has, admittedly, afforded sufficient opportunity to the petitioner. However, the petitioner appears to have sought an adjournment on multiple occasions on the ground that the materials that were sought and would support the submissions made by it at the time of assessment were unavailable. Thus on the third occasion when the petitioner sought a further extension of time, the Assessing Authority has rejected the request and proceeded to frame the assessment. The action of the Assessing Authority in this regard cannot be faulted.

4. The petitioner thus filed rectification applications and along with it, furnished statements reconciling the differences allegedly found at the time of visit by the Enforcement Officials and the details found in the impugned orders of assessment with its own records. The reconciliation statements have been rejected on the ground that the statements have been filed only after a year and five months after the passing of orders of assessment and hence there is no apparent error on the face of the record.

5. Be that as it may, the sequence of events as narrated above would establish that this is a matter where, in the interests of substantial justice, the petitioner should be granted one more opportunity to substantiate its case before the Assessing Authority and Mr.Jayaprathap also does not object to this suggestion by the Court. Learned counsel for the petitioner would submit that all materials necessary to substantiate the petitioner's case before the Assessing Authority are available and have, in fact, been filed along with the rectification applications itself.

6. Thus the impugned orders are set aside, solely for the purpose of granting an effective opportunity to the petitioner to put forth its case before the authorities. The petitioner will appear before the Assessing Authority on Monday, the 3rd of May, 2021 at 10.30 a.m. along with all/any materials in support

of its contention, without expecting any further notice in this regard. The petitioner shall be heard either over video conference or physically as may be mutually convenient to the parties, to be intimated to the petitioner sufficiently in advance. After hearing the petitioner and consideration of all/any materials that may be furnished, let orders of assessment be passed de novo within a period of four (4) weeks thereafter. If there is non-appearance by the petitioner, it is made clear that the opportunity extended under this order shall lapse and the impugned orders of assessment will stand revived automatically without further reference to the petitioner.

7. These Writ Petitions are disposed in the aforesaid terms. No costs. Connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

The Commercial Tax Officer,
Kodambakkam Assessment Circle,
IV Floor, PAPJM Building Annex,
Greams Road,
Chennai - 600 006.

+1cc to Mr.P.Rajkumar, Advocate, S.R.No.22642

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PMK(CO)
RN(10/05/2021)