IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 09.02.2021
CORAM:

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P. Nos. 2778 to 2782 of 2016
and
W.M.P. Nos. 2315 to 2319 of 2016

Tvl.Wins International,
Represented by its Partner,
P.Palanisamy,
No.627, Rakkiapalayam,
Kangeyam Road,
Tirupur – 641 606. ... Petitioner in all W.Ps

Vs

The Assistant Commissioner (CT),
Tirupur (Rural) Assessment Circle,
Tirupur. ... Respondent in all W.Ps

Prayer in W.P.No.2778 of 2016: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records on the files of the respondent in Assessment No.33492389805/2010-11 dated 02.12.2015 and quash the same as being without jurisdiction and authority of law and contrary to the principles of natural justice.

Prayer in W.P.No.2779 of 2016: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records on the files of the respondent in Assessment No.33492389805/2012-13 dated 02.12.2015 and quash the same as being without jurisdiction and authority of law and contrary to the principles of natural justice.

Prayer in W.P.No.2780 of 2016: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records on the files of the respondent in Assessment No.33492389805/2009-10 dated 02.12.2015 and quash the same as being without jurisdiction and authority of law and contrary to the principles of natural justice.

Prayer in W.P.No.2781 of 2016: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records on the files of the respondent in Assessment No.33492389805/2011-12 dated 02.12.2015 and quash the same as being without jurisdiction and authority of law and contrary to the principles of natural justice.

Prayer in W.P.No.2782 of 2016: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records on the files of the

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respondent in Assessment No.33492389805/2008-09 dated 12.09.2015 and quash the same as being without jurisdiction and authority of law and contrary to the principles of natural justice.

For Petitioner : Mr.R.Senniappan
(In all W.Ps)
For Respondent : Mr.R.Swarnavel
(In all W.Ps) Government Advocate

COMMON ORDER

By this common order all the writ petitions are being disposed of.

2. The petitioner is an exporter of textile product and has exported goods under various export invoices. It is submitted that by the time, the petitioner released export products, the dollar fluctuated and there was difference in the amount realized in Indian Rupees. It is therefore submitted that there was a difference in the amount that was mentioned in the monthly returns and in the annual returns filed by the petitioner. Under these circumstances, when a VAT Audit was conducted under Section 63(A) of the TNVAT Act, 2006, the variance in the amount declared in the monthly returns and annual returns were found. The statements were recorded from the petitioner and the petitioner undertook to give the detail explanation. The petitioner also sent reply on 09.12.2014, which was duly acknowledged by the office of the respondent. However, vide the impugned order dated 02.12.2015, the respondent has confirmed the demand proposed during the order.

3. The impugned order refers to the revised notice. However it was not served on the petitioner. However, in the counter, it is mentioned that a notice dated 20.05.2015 was served on the petitioner and thereafter a revised notice on 22.05.2015 was received by the petitioner pursuant to which the impugned order has been passed.

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4. I have considered the arguments advanced by the learned counsel for the petitioner and the respondent.

5. The impugned order has not referred to the notice dated 20.05.2015 or 22.05.2015. On the other hand, it has merely referred to the audit conducted on 02.12.2014 to 05.12.2014 at the petitioner premises and has passed the impugned order seeking to recover the balance amount on account of the difference.

6. Since the impugned order has been passed without hearing and calling upon the petitioner to show cause as to

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why the amounts proposed in the notice dated 20.05.2015 and 22.05.2015, should not be confirmed as there is a manifest violation of Principles of Natural Justice.

7. Therefore, the impugned orders stand quashed. The orders shall be treated as notice to the petitioner. The petitioner is therefore directed to file a reply/representation, if any, within a period of 30 days from the date of receipt of a copy of this order.

8. On such reply/representation has been made by the petitioner, a personal hearing shall be held by the respondent either physically or through video conferencing. The respondent shall pass orders after following Principles of Natural Justice by affording an opportunity of hearing to the petitioner. The respondent shall thereafter pass fresh order within a period of 3 months from the date of receipt of a copy of this order.

9. These Writ Petitions stand disposed of with the above observations. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

arb

To
The Assistant Commissioner (CT),
Tirupur (Rural) Assessment Circle,
Tirupur.

+1cc to Mr.R.Senniappan , Advocate SR.No. 9665
+1 cc to Spl Government Pleader(Taxes) Sr.No. 7295

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A.SK(15.03.2021)

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