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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2021

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.NOS.22312, 22314 & 22315 OF 2021
AND
WMP.NOS.23540 TO 23542 OF 2021,
23543,23545 & 23546 OF 2021
AND
23547 TO 23549 OF 2021

(Through Video Conferencing)

S.Purushothaman ...Petitioner in all W.Ps.

vs

The State Tax Officer,
Arni, Tiruvannamalai District ...Respondent in all W.Ps.

Prayer in all W.Ps. : Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records of the petitioner on the file of the respondent in in his impugned proceedings made in TIN : 33914562471/2010-11, 2011-12 and 2012-13 dated 21.09.2015 and to quash the same.

For Petitioner : Mr.S.Rajasekar

For Respondent : Ms.Amrita Dinakaran
Government Advocate.

C O M M O N O R D E R

The petitioner has challenged the impugned orders dated 21.09.2015 passed for the Assessment Years 2010-2011 to 2012-2013 respectively.

2. It is the case of the petitioner that a notices preceding the impugned assessment orders were not served on the petitioner. It is submitted that the petitioner had closed down the business and therefore notice was not served on the petitioner.

3. The learned counsel for the petitioner further submitted that though in the preamble to the respective impugned orders

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dated 21.09.2015, it is stated that notice was served on the petitioner and called upon the petitioner to file objections, the petitioner could not file any objection as the notice remained unserved on the petitioner. It is submitted that the Deputy Commercial Tax officer determined a total taxable turnover of the petitioner for the Assessment Years 2010-11 to 2012-13 under Section 27(1) of the TNVAT Act, 2006 incorrectly.

4. The learned counsel further submits that the petitioner came to know about passing the impugned order only after the petitioner received Auction notice dated 06.09.2021.

5. The learned counsel for the respondent submits that it is not correct to state that the petitioner has not received notice dated 14.08.2015 inasmuch as notice has been duly acknowledged. The learned counsel for the respondent has also filed a copy of the postal acknowledgment evidencing the service of the notice on the petitioner.

6. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondent in respective writ petitions.

7. The respondent has found fault with the petitioner by stating that the notice preceding the passing of the impugned order had been sent to the petitioner at the place of business as in the Registration Certificate. However, the fact remains that the petitioner had closed down the business and therefore the aforesaid notice remained un-served on the petitioner.

8. Thus, the petitioner could not have filed any reply/objection to the notice issued to the petitioner. If the notice had remained un-served at the place of business, the respondent could have sent a notice to the petitioner in the permanent address. The facts do not indicate that such an exercise was carried out by the respondent. Therefore, the impugned orders passed are in violation of principle of natural justice as the petitioner has neither filed a reply nor attended before the respondent in a personal hearing.

9. Considering the fact that the orders have been passed without following the principle of natural justice, the impugned orders are hereby quashed and the cases are remitted back to the respondent to pass a speaking order on merits and in accordance with law, within a period of 45 days from the date of receipt of a copy of this order.

10. Liberty is given to the petitioner to file petition/reply along with separate documents within a period of 30 days from the date of receipt of a copy of this order. The

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petitioner is also directed to appear before the respondent on 01.02.2022 for a personal hearing.

11. These writ petitions are allowed with the above observations. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-III)

// True Copy //

Sub Assistant Registrar

kkd

To

The State Tax Officer,
Arni, Tiruvannamalai District.

+1cc to the Special Government Pleader (Taxes) SR.No.62193

W.P.Nos.22312, 22314
& 22315 of 2021

PL(CO)
RVM(17/12/2021)

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