BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.03.2021

CORAM
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)Nos.2542, 2543 and 2544 of 2016
and
W.M.P.(MD)Nos.2252, 2253 and 2254 of 2016

M/s.Aathma Traders,
Rep. by its Partner,
S.Rajkumar ... Petitioner in all W.Ps

Vs.

The Commercial Tax Officer (CT),
Pattukkottai - I Assessment Circle,
Pattukkottai,
Thanjavur District. ... Respondent in all W.Ps

Common Prayer : Writ Petitions filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records of the respondent in TIN No.33284163323/2012-2013, 2013-2014 and 2014-2015 dated 30.11.2015 and quash the same as illegal, arbitrary and against the principles of natural justice.

(In all W.Ps)
For Petitioner : Mr.K.Soundararajan
For Respondent : Mrs.J.Padmavathi Devi,
Special Government Pleader.

COMMON ORDER

Heard the learned counsel on either side.

2.The writ petitioner is a dealer registered with the respondent. The petitioner has filed these writ petitions for the assessment years 2012-13, 2013-14 and 2014-15. The petitioner had opted to pay tax at compounded rates under Section 3(4) of the Tamil Nadu Value Added Tax, 2006. The petitioner had filed his returns accordingly. The petitioner's place of business was inspected on 23.04.2015. Certain discrepancies were noticed. Based on the same, the impugned action was initiated. The respondent issued pre-revision notice dated 16.07.2015. The petitioner offered his objection on 30.07.2015. Thereafter, the impugned orders came to be passed. Challenging the same, these writ petitions has been filed.

3.The petitioner's counsel would point out that the case of the respondent is that the petitioner's turn over crossed Rs.50 Lakhs and that therefore, the petitioner was not eligible to come under Section 3(4) of the Act and that the commodities should be taxed only under Section 3(2) of the Act and that for the turn over in excess of Rs.50 Lakhs, the petitioner will have to come under Section 3(2) of the Act. Since the petitioner had breached the ceiling limit of Rs.50 Lakhs for the year 2012-13, the petitioner could not come under Section 3(4) of the Act for the subsequent two assessment years.

4.Though the petitioner's counsel raised very many grounds in the affidavit filed in support of the writ petitions and also reiterated them during the course of arguments, I am of the view that these writ petitions can be disposed of on a short ground. It is seen from the materials enclosed in the typed set of papers that the petitioner's place of business was inspected on 23.04.2015 by one Mrs.V.Chandra. She was the Commercial Tax Officer (Enforcement) Gr-I, Ariyalur, during the relevant time. It so happened that the very same official happened to pass the orders impugned in these writ petitions. This without doubt is clear violation of principles of natural justice. It is quite possible that Mrs.V.Chandra did not have animosity or bias against the petitioner herein. But then, the Court will have to apply the principle of likelihood of bias from the perspective of the assessee. When the said inspecting official had pointed out certain discrepancies, the petitioner is bound to entertain suspicion that she will reiterate the very same stand in the adjudication proceedings also. Therefore, I hold that passing of the impugned orders by the very same official, who conducted inspection of the petitioner's place of business vitiates the entire proceedings. Therefore, the impugned orders are set aside. The matters are remitted to the file of the respondent to pass orders afresh in accordance with law. I make it clear that the period from 05.01.2016 to 21.03.2021 will be excluded for the purpose of computing limitation. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

ias

Note :In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

The Commercial Tax Officer (CT),
Pattukkottai – I Assessment Circle,
Pattukkottai,
Thanjavur District.

+1 CC to SPL GP (SR-8410[F] dated 03/03/2021)

+3 CC to MR.K.SOUNDARARAJAN, Advocate (SR-8575[F] dated 03/03/2021)

W.P(MD)Nos.2542, 2543 and 2544 of 2016
02.03.2021

KM (26.03.2021) 3P 6C