BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 12.03.2021
CORAM:
**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**
W.P.(MD)Nos.10584 to 10587 of 2017
and
W.M.P.(MD)Nos.8071 to 8078 of 2017

M/s.Aditya Auto Products and
Engineering (India) Pvt. Ltd.,
Rep. by its Authorized Signatory-R.Nandan,
S.F.No.222/8, 223,
Viralimalai-621 316,
Pudukottai District. ... Petitioner in all W.Ps.

-Vs-

The Assistant Commissioner (CT),
Pudukottai-I, Assessment Circle,
Pudukottai,
Pudukottai District. ... Respondent in all W.Ps.

**Prayer in W.P.(MD)No.10584 of 2017**: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records on the file of the respondent in its impugned proceedings made in TIN No.33644105604/2011-12, dated 09.03.2017, quash the same.

**Prayer in W.P.(MD)No.10585 of 2017**: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records on the file of the respondent in its impugned proceedings made in TIN No.33644105604/2012-13, dated 09.03.2017, quash the same.

**Prayer in W.P.(MD)No.10586 of 2017**: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records on the file of the respondent in its impugned proceedings made in TIN No.33644105604/2013-14, dated 09.03.2017, quash the same.

**Prayer in W.P.(MD)No.10587 of 2017**: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records on the file of the respondent in its impugned proceedings made in TIN No.33644105604/2014-15, dated 09.03.2017, quash the same.

For Petitioner : Mr.S.Rajasekar
for Mrs.R.Hemalatha

For Respondent : Mr.G.Arjunan
(in all W.Ps) Government Advocate

**COMMON ORDER**

Heard the learned counsel on either side.



**2**.The petitioner M/s.Aditya Auto Products and Engineering (India) Private Limited suffered adverse orders of assessment for the assessment years 2011-12 to 2014-15. Instead of preferring an appeal, the assessee filed the rectification petitions under Section 84 of TNVAT Act. The petitioner also filed W.P.(MD)Nos.88 to 91 of 2017 for mandating the respondent to dispose of those rectification petitions. Vide order dated, 05.01.2017, this Court directed the respondents to dispose of the said rectification petitions on or before 10.03.2017. Before expiry of the time stipulated by this Court, the orders impugned in these writ petitions were passed on 09.03.2017 rejecting the rectification petitions. They are assailed in these writ petitions.

3.The respondent has filed a detailed counter affidavit and the learned Government Advocate took me through their contents. The respondent has pointed out that the impugned orders were passed on 09.03.2017 itself and thus, the direction given by this Court has been complied with. He also would point out that only if the rectification order has the effect of enhancing the tax or penalty, then the requirement of granting personal hearing would arise and since in this case, there is no such effect contemplated by proviso under Section 84(1) of TNVAT Act, there is no need for grant of personal hearing to the petitioner. The learned Government Advocate would point out that if the petitioner is aggrieved by the rectification orders, he can prefer revision before the Joint Commissioner. He called for dismissal of these writ petitions.

4.I carefully considered the rival contentions and went through the materials on record.

5.In the rectification petition, the petitioner had raised quite a few grounds. Instead of dealing with the grounds, the respondent had chosen to go-by what transpired during inspection by the Enforcement Wing Officials. The respondent has stated in the impugned orders that the inspection was conducted over several days and that, the petitioner did no raise any objection before the inspecting officials. The respondent had also commented that when the petitioner had a remedy of filing an appeal against the original assessment orders, he had chosen to come by way of rectification petition. I must point out here that when the statute provides a remedy of filing a rectification petition, the assessee cannot be faulted for having taken recourse to it. I am satisfied that none of the contentions of the petitioner have been considered. Instead, the respondent has chosen to go-by what transpired prior to filing of the rectification petition. Virtually, the order must be construed as a non speaking order.

6.In this view of the matter, the orders impugned in the writ petitions are quashed. These writ petitions are allowed. The matter is remitted to the file of the respondent to pass orders afresh in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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 Assistant Commissioner (CT),
Pudukottai-I, Assessment Circle,
Pudukottai,
Pudukottai District.

+1 CC to M/s.SPL GP ( SR-11019[F] dated 15/03/2021 )

W.P.(MD)Nos.10584 to 10587 of 2017
and
W.M.P.(MD)Nos.8071 to 8078 of 2017
12.03.2021

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