BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 25.04.2022
CORAM

THE HONOURABLE MR. JUSTICE C.SARAVANAN

Writ Petition (MD)Nos.7841, 7843, 7845, 7856, 7862 and 7864 of 2021
and
W.M.P.(MD)Nos.5975, 5978, 5979, 5992, 5993 and 5995 of 2021

Tvl. Veyil Katha Eswari & Co.,
Rep. by its Proprietor,
V.P.M.Thangaraj,
No.3/456-B, Madurai Mandapam Road,
Paramakudi,
Ramanathapuram District - 623 707. .. Petitioner in all the W.Ps.

Versus

1.The Commissioner of Commercial Taxes,
O/o. the Principal and Special Commissioner of Commercial Taxes,
Ezhilagam, Chepauk,
Chennai - 600 005.

2.The Commercial Tax Officer,
Paramakudi Assessment Circle,
Commercial Tax Building,
No.3/103, Madurai Mandapam Main Road,
Thirunagar, Theligathanallur,
Paramakudi,
Ramanathapuram District - 623 707... Respondents in all the W.Ps.

<u>Prayer in all the W.Ps.:-</u> Petitions filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the records pertaining to the impugned proceedings of the second respondent in TIN:33935420813/2008-09, 2009-10, 2013-14, 2011-12, 2010-11 and 2012-13, dated 27.02.2020 and quash the same.

For Petitioner (in all the W.Ps.) : Mr.B.Rooban

For Respondents (in all the W.Ps.) : Mr.K.S.Selvaganesan, Additional Government Pleader

<u>COMMON ORDER</u>

By this common order, these Writ Petitions have been disposed of.

2.The petitioner had earlier filed W.P.(MD)Nos.17435 to 17440 of 2015, wherein the assessment orders passed by the second respondent for the assessment years 2008 - 2009 to 2013 - 2014 vide separate orders dated 24.07.2015, were challenged and for a consequential direction to the second respondent to re-do the assessment after providing copies of the documents relied upon, to the petitioner and by giving an opportunity of being heard.

3.The Writ Petitions were disposed of by a common order dated 23.04.2019. The operative portion of the said order reads as under:-

> ''6.*This Court is of the considered view that the respondents have violated the principles of natural justice by not affording personal hearing to the petitioner and by not applying his mind independently in respect of the replies sent by the petitioner to the pre-revision notices and hence, the writ petition filed by the petitioner is maintainable under article 226 of the Constitution of India.*
>
> 7.*For the foregoing reasons, the impugned assessment orders dated 24.07.2015 for the respective assessment years 2008-09, 2009-10, 2010-11, 2011-12, 2012-13 and 2013-14 is hereby quashed and the matter is remanded back to the respondents for fresh consideration and the respondents shall provide all the documents relied upon by the petitioners in respect of the pre-revision notices issued to the petitioner and shall pass final orders after affording adequate opportunity to the petitioner including granting him the right of personal hearing within a period of eight weeks from the date of receipt of a copy of this order.*
>
> 8.*With the aforesaid direction, these writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.''*

4.Pursuant to the above, the petitioner was issued with notices for the respective assessment years on 07.11.2019, to which the petitioner had also filed a reply dated 18.11.2019 which culminated in the impugned orders dated 27.02.2020. The specific case of the petitioner in these Writ Petitions is that the impugned orders have been passed in gross violation of principles of natural justice, inasmuch as none of the documents relied upon which formed the basis on which the assessment orders, dated 24.07.2015, were passed and were quashed by order dated 23.04.2019 in W.P.(MD)Nos.17435 to 17440 of 2015, were served on the petitioner. The learned counsel for the petitioner further submits that the notices issued pursuant to the order of this Court dated 23.04.2019 in the above Writ Petitions merely called upon the petitioner to furnish certain documents for verification within 15 days and to come for a personal hearing.

5.The learned counsel for the petitioner submits that though the petitioner has given detailed replies, the respondents have dropped the proceedings as far as the alleged sales effected by the petitioner based on the information gathered by the respondents in the Web portal of the alleged buyers of the petitioner alone.

6.It is further submitted that no notice was given to the petitioner on the other aspects in respect of which, tax has been confirmed in the impugned orders.

7.The learned Additional Government Pleader for the respondents on the other hand, submits that since no other additional information were available, the demand as far as the alleged sale to third parties based on the information gathered from the Web Portal, was dropped in the impugned proceedings. However, the proposals contained in the notices were issued prior to orders dated 24.07.2015, which were impugned in W.P.(MD)Nos.17435 to 17440 of 2015 have been adjudicated. It is submitted that the demand that has been confirmed in the impugned orders have emanated from the prior notices issued to the petitioner, which culminated in the orders dated 24.07.2015. Therefore, it is not open for the petitioners to allege violation of principles of natural justice.

8.I have considered the arguments advanced by the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents.

9.There is no merit in these Writ Petitions. There are several disputed question of facts. The issue relating to suppression of sale receipts which were not found from the petitioner or the documents which were recovered from the petitioner. These aspects were not replied by the petitioner in the replies dated 18.11.2019. The issues have to be only settled in an appeal proceeding before the appellate authority namely, the Appellate Deputy Commissioner (CT), Virudhunagar. There is no case made out for interference, as there is no violation of principles of natural justice. The documents, which were directed to be furnished by the petitioner, were relating to documents to substantiate alleged sales suppression based on the information gathered from the Web portal of the Commercial Taxes Department. No demand has been confirmed in respect of others. As far as the other issues in respect of which demand has been confirmed, it is based on the available records.

10.Considering the above, I am inclined to dismiss the Writ Petitions by giving liberty to the petitioner to file a statutory appeal before the Appellate Deputy Commissioner (CT), Virudhunagar, within a period of 30 days from the date of receipt of a copy of this order. In case, the petitioner files such appeal, the same will be entertained and disposed in accordance with law. Needless to state, before final orders are passed, the petitioner shall be heard. The Appellate Deputy Commissioner (CT), Virudhunagar, shall consider the plea of the petitioner on merits and dispose of the same.

11.These Writ Petitions are dismissed with the above observations. No costs. Consequently, connected Miscellaneous Petitions are closed.

12.The learned counsel for the petitioner requests for return of impugned orders to facilitate the petitioner to file statutory appeal before the Appellate Deputy Commissioner. Hence, Registry is directed to return the same.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

1.The Commissioner of Commercial Taxes,
O/o. the Principal and Special Commissioner of
Commercial Taxes,
Ezhilagam, Chepauk, Chennai - 600 005.

2.The Commercial Tax Officer,
Paramakudi Assessment Circle,
Commercial Tax Building,
No.3/103, Madurai Mandapam Main Road,
Thirunagar, Theligathanallur,
Paramakudi, Ramanathapuram District - 623 707.

3.The Appellate Deputy Commissioner (CT),
Virudhunagar.

4.The Section Officer,
E.R.Section,
Madurai Bench of Madras High Court, Madurai.

+6 CC to M/s.B. ROOBAN, Advocate (SR-21576[F] dated 27/04/2022)

+1 CC to M/s.SPL.GP. (SR-21304[F] dated 26/04/2022)

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RD(24.05.2022) 4P 12C