IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **20.02.2023**

CORAM

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

W.P.Nos.767, 769, 770, 772 and 773 of 2022
and
W.M.P.Nos.858, 860, 863, 859 and 855 of 2022

Sri Murugan Electrical Stores,
Rep. by its Proprietor,
M.Krishnamoorthy ... Petitioner
In all W.Ps.

Vs.

The Assistant Commissioner (ST) (FAC),
Namakkal (Rural) Assessment Circle,
Namakkal. ... Respondent
In all W.Ps.

<u>COMMON PRAYER</u>: Writ Petitions have been 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 TIN:33883101716/2011-12, TIN:33883101716/2013-14, TIN:33883101716/2014-15 and TIN:33883101716/2015-16 all dated 29.04.2021 and TIN:33883101716/2012-13 dated 27.04.2021 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 : Mrs.K.Vasantha Mala
Government Advocate
In all W.Ps.

COMMON ORDER

The petitioner has challenged the impugned assessment orders dated 29.04.2021 and 27.04.2021 passed in respect of the assessment years 2011-12 upto 2015-16 on the ground of violation of principles of natural justice. Penalty of Rs.9,84,377/-, Rs.12,96,897/-, Rs.13,91,919/-, Rs.15,94,266/- and Rs.10,08,618/- have been levied against the petitioner under the provisions of the Tamil Nadu Value Added Tax Act, 2006 *(Hereinafter referred to as TNVAT Act, 2006)* under the impugned assessment orders.

2. Admittedly, the notice was issued to the petitioner by the respondent on 02.02.2021 in the impugned proceedings, calling upon the petitioner to come for personal hearing on 18.02.2020 at 11:30 a.m.. However, as seen from the impugned assessment orders dated 29.04.2021 and 27.04.2021, the date of personal hearing given to the petitioner is mentioned as 16.02.2020 at 11:30a.m..

3. The petitioner contends that, on 18.02.2020, he has appeared for the personal hearing as requested in the respondent's notice dated 02.02.2021. According to the petitioner, on 18.02.2020, during the personal hearing, he sought for further time to submit his reply. It is stated by the petitioner that the respondent informed him that a fresh notice will be issued to the petitioner, intimating a fresh date of personal hearing. However, as seen from the impugned orders, it has been observed that the personal hearing was granted to the petitioner on 16.02.2020, though the personal hearing was infact granted to the petitioner only on 18.02.2020. The impugned assessment orders are dated 29.04.2021 and 27.04.2021.

4. In the impugned assessment orders, the respondent has not taken note of the fact that the personal hearing was granted to the petitioner only on 18.02.2020 and not on 16.02.2020 as reflected in the impugned assessment orders. No fresh notice was also issued to the petitioner by the respondent, intimating a fresh date of personal hearing. Without granting personal hearing to the petitioner to enable the petitioner to raise objections

with regard to the levy of penalty under the TNVAT Act, 2006, the respondent has gone ahead and passed the impugned assessment orders dated 29.04.2021 and 27.04.2021.

5. Since the personal hearing has not been afforded to the petitioner, it is clear that principles of natural justice has been violated by the respondent. Hence, the impugned assessment orders have to be quashed and the matters will have to be remanded back to the respondent for fresh consideration on merits and in accordance with law.

6. This Court deems it fit to fix the next date of personal hearing of the petitioner before the respondent as 14.03.2023 and on that date the petitioner shall appear before the respondent at 10:30 a.m. without fail.

7. For the foregoing reasons, the impugned assessment orders dated 29.04.2021 and 27.04.2021 passed by the respondent are hereby quashed and the matters are remanded back to the respondent for fresh consideration on merits and in accordance with law. The petitioner shall appear before the respondent on 14.03.2023 at 10:30 a.m. without fail and shall not seek

adjournment on any ground. After affording a personal hearing to the petitioner on 14.03.2023 and after adhering to the principles of natural justice, the respondent shall pass final orders on merits and in accordance with law within a period of twelve weeks from the date of personal hearing i.e., from 14.03.2023.

8. With the aforementioned directions, these Writ Petitions are disposed of. No Costs. Consequently, the connected Writ Miscellaneous Petitions are closed.

20.02.2023

Index : Yes/No
Speaking Order : Yes / No
Neutral Citation Case: Yes / No
ab

To

The Assistant Commissioner (ST) (FAC),
Namakkal (Rural) Assessment Circle,
Namakkal.

ABDUL QUDDHOSE. J.,

ab

W.P.Nos.767, 769, 770, 772 and 773 of 2022

20.02.2023