IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.Nos.3403 & 3406 of 2023 &
W.M.P.Nos.3477 & 3472 of 2023

K.Subramani ... Petitioner in both W.Ps.

Vs

The Assistant Commissioner (ST)
Singanallur North Circle
Coimbatore- 641 018 ... Respondent in both W.Ps.

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India seeking Writ of Certiorarified Mandamus calling for the records leading to the issuance of order bearing reference Nos. TIN 33451824123 / 2012-13, TIN 33451824123 / 2013-14 both dated 21.12.2022 by the respondent herein and quash the same and direct the respondent herein to consider the rectification application filed by the petitioner on 15.12.2022 and grant an opportunity of hearing.

For Petitioner : Mr.Adithya Reddy
For Respondent : Mr.T.N.C.Kaushik,
Additional Government Pleader

COMMON ORDER

These writ petitions have been filed challenging the orders both dated 21.12.2022 passed under section 84 of the Tamil Nadu Value Added Tax Act, 2006 rejecting the petitioner's application in respect of the assessment years 2012-13 & 2013-14.

2. Heard Mr.Adithya Reddy, learned counsel for the petitioner and Mr.T.N.C.Kaushik, learned Additional Government Pleader appearing for the respondent.

3. The petitioner had sought for rectification of the assessment orders both dated 12.12.2022 in respect of the assessment years 2012-13 and 2013-14 which has been rejected under the impugned orders. The petitioner has challenged the impugned orders on the ground of violation of principles of natural justice as according to him, the reply send by him has not been considered by the respondent in the impugned orders. While dealing with a similar issue, this Court by its order dated 23.01.2023 passed in W.P.No.1287 of 2023 in the case of Sri Ragava Medical and General Stores

vs, The Deputy Sales Tax Officer, Thirukovilur and another, after extracting section 84 of the Act, 2006 which deals with the rectification application held as follows:

> *"6.Rectification application under Section 84 of the Act cannot be treated on par with a regular assessment. Only in cases, where there is an error which is apparent on the face of the record in the Assessment Order, a rectification under Section 84 of the Act is permissible. If the opportunity of hearing for the Dealer is made mandatory in an application filed under Section 84 of the Act, there will be no finality of any Assessment. That is the reason as to why the Legislature thought it fit to include the 1 st proviso in Section 84(1) of the Act by making it clear that only in cases, where there is an enhancement of assessment or penalty, the Assessment Officer will have to give an opportunity of hearing to the Dealer and not otherwise. The respondents in the impugned order has examined the request of the petitioner seeking for rectification and only thereafter correctly found that the assessment dated 19.12.2016 for the Assessment Year 2013-14 does not require any rectification. As observed earlier, as per the provisions of Section 84 of the Act, only in cases of enhancement of Assessment or Penalty, the respondents will have to afford an opportunity of hearing*

to the petitioner. Since the respondents have confirmed the Assessment made in the year 2016 for the Assessment Year 2013-14 in the impugned order, the question of granting an opportunity of hearing to the petitioner will not arise. The 1 st respondent has rightly rejected the petitioner's request for rectification under Section 84 of the TNVAT Act, 2006."

4.In the case on hand also, in the impugned orders passed under section 84 of the Tamil Nadu Value Added Tax Act, 2006, there is no enhancement of assessment or penalty and therefore, there is no necessity for the respondent to adhere to the principles of natural justice as claimed by the petitioner in these writ petitions.

5.In view of the aforementioned observations made by this Court in its order dated 23.01.2023 passed in W.P.No.1287 of 2023, there is no merit in these writ petitions

6.Accordingly, these writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

22.02.2023

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Index : Yes/No
Speaking/Non speaking orders
Neutral citations : Yes/No

To

The Assistant Commissioner (ST)
Singanallur North Circle
Coimbatore- 641 018

ABDUL QUDDHOSE, J.

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W.P.Nos.3403 & 3406 of 2023

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