BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.11.2015

C O R A M

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition (MD)Nos.20581 to 20584 of 2015

Tvl.Rohini Agencies
rep.by its Proprietor
Mr.Anil Kumar,
183, Vadivel Compound,
P.W.D.Compound,
Nagercoil,
Kanyakumari District. ... Petitioner in all WPs

Vs.

The Commercial Tax Officer,(FAC)
Nagercoil(Tower Junction)
Assessment Circle,
Nagercoil,
Kanyakumari District. ... Respondent in all WPs

Prayer: Writ Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the respondent pursuant to his impugned orders in TIN 33146141521/2011-12, 2012-13, 2013-14 and 2014-15 dated 12.10.2015 and quash the same as illegal and unconstitutional and consequently direct the respondent to afford an opportunity of personal hearing to produce documents before passing assessment order.

For Petitioner : Mr.G.V.Vairam Santhosh
For Respondent : Mr.R.Karthikeyan
Additional Government Pleader

COMMON ORDER

In all these Writ Petitions, the petitioner firm is challenging the orders of assessment of the respondent.

2. It is the contention of the petitioner firm that such assessment order came to be passed in violation of principles of natural justice. According to the petitioner firm, when they sought time for filing their objections, the authority failed to give time and consequently passed the present orders of assessment. Therefore, they want to sustain the maintainability

of all the Writ Petitions even though an alternative remedy of appeal is available to them.

3. I am unable to accept the submissions made by the learned Counsel for the petitioner firm that the impugned order of assessment came to be passed in violation of principles of natural justice. A perusal of the said order would show that notice was issued to the petitioner firm inviting objections on the proposals and such notice was also received by the dealers on 24.08.2015. Thereafter, they sought one month time to furnish the documents. It is the finding of the assessing authority that even thereafter, the petitioner firm has not filed the objections, till the order of assessment is passed. Therefore, it cannot be contended that the principles of natural justice is violated in this case. When the order of assessment is passed by the competent authority by following the principles of natural justice and when the petitioner firm has not availed the opportunity given to them by filing their objections, they cannot come before this Court and contend that there is violation of principles of natural justice. I am of the firm view that the petitioner firm has to agitate the matter before the competent authority by filing statutory appeal, as the appellate authority being the fact finding authority as well. Recently, this Court rejected similar Writ Petitions in W.P.(MD).No.20162 to 20164 of 2015 on the reason of a availability of alternative remedy.

4. Accordingly, all these Writ Petitions are also dismissed with liberty to the petitioner firm to file their statutory appeal before the respondent within a period of four weeks from the date of receipt of a copy of this order. No costs.

SD/-
Assistant Registrar(Per.Admn)

/True Coy/

Sub-Assistant Registrar

To,
The Commercial Tax Officer(FAC),Nagercoil(Tower Junction)
Assessment Circle, Nagercoil,Kanyakumari District.
Copy to: The Section Officer, E.R.Section,
Madurai Bench of Madras High Court, Madurai
+One cc to Mr.G.V.Vairam Santhosh, Advocate, SR.No.66750
+One cc to The Special Government Pleader, SR.No.67047
ssm
RL/5c/SKS/RR/2/12/2015 Writ Petition (MD)Nos.20581 to 20584 of 2015