IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 26.07.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.Nos.10191 to 10194 of 2014
and
M.P.No.1 of 2014 (in all the W.Ps)

RSM Autokast Ltd.,
rep.by its Managing Director,
K.Ilango,
603-C Block, Pioneer Complex,
1075, Avinashi Road,
Coimbatore-641 018 ... Petitioner in all the W.Ps

vs.

The Commercial Tax Officer,
Avinashi Road,
Coimbatore ... Respondent in all the W.Ps.

Writ petitions filed under Article 226 of the Constitution of India praying for a writ of certiorari calling for the records on the file of the respondent herein in his TIN 33281781197/2007-08, 2008-09, 2009-10 and 2010-11, dated 28.2.2014 and to quash the same with the direction to redo the assessment in considering the reconciliation statement dated 18.4.2013 along with their reply dated 18.2.2014, after providing an opportunity of being heard.

For Petitioner : Mr.N.Inbarajan

For Respondents :Mr.Manokaran Sundaram, A.G.P.

COMMON ORDER

Heard Mr.N.Inbarajan, learned counsel for the petitioner and Mr.Manokaran Sundaram, learned Additional Government Pleader appearing for the respondent and with the consent of parties, the writ petition itself is taken up for final disposal.

2.The petitioner is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (hereinafter referred to as TNVAT Act in short). In these writ petitions, the petitioner challenges the orders of assessment for the years 2007-08, 2008-09, 2009-10 and 2010-11.

3. The principal ground on which the impugned orders have been questioned is non-application of mind and violation of principles of natural justice.

4. A field audit was conducted by the Enforcement Wing of the respondent Department in the place of business of the petitioner on 18.2.2013. During the course of audit, certain defects were noticed in the maintenance of accounts and non-payment of taxes under the TNVAT Act. Based on the report submitted by the Enforcement Wing, the respondent issued a notice, proposing to revise the assessments based on the defects pointed out by the Enforcement Department.

5. The petitioner submitted a common reply, dated 18.2.2014, for all the years, stating that with regard to the difference noticed between the reported turnover and the turnover shown in the balance-sheet, they had already submitted reconciliation statement along with their letter dated 18.4.2013 and there is no difference in their turnover reported as well as the turnover found in the balance-sheet. Copy of the said information was enclosed along with the objection. The other issues which were pointed out in the pre-revision notice were also suitably explained. However, the respondent proposed to finalise the assessments without providing any personal hearing, though it may be true that the petitioner did not specifically pleaded for a personal hearing. But however, while completing the assessments, the respondent had stated that the turnover furnished before the audit officers and the turnover furnished in the reconciliation statement are different and that the petitioner has not filed any explanation for the difference in turnover arrived at by the field audit officers.

6. As rightly pointed out by the learned counsel for the petitioner, in the explanation itself the petitioner had pointed out that there is no difference in both the turnovers and copy of the earlier letter dated 18.4.2013, which was an explanation given to the audit report, was enclosed along with the explanation dated 18.2.2014. However, the respondent, without due application of mind and without even enquiring into the matter, has completed the assessments in the most cryptic manner. Therefore, this Court is inclined to interfere with the impugned orders.

7. Accordingly, the writ petition is allowed. The impugned orders are quashed and the matters are remanded to the respondent to re-do the assessments afresh, after affording an opportunity of hearing to the petitioner. No costs. Connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

The Commercial Tax Officer,
Avinashi Road,
Coimbatore.

+1 cc to Mr.N.Inbarajan, advocate,sr.42615

+1 cc to Spl.Govt.Pleader,sr.42888

+1 cc to Spl.Govt.Pleader,sr.42389

ctr(co)
krd 9/8

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