In the High Court of Judicature at Madras

Dated : 17.6.2016

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.20244 & 20268 to 20272 of 2015
& all connected pending MPs

Newry Properties Pvt. Ltd., rep.
by Director Mr.S.Sridharan ...Petitioner in all WPs

Vs

The Assistant Commissioner (CT),
Amaindakarai Assessment Circle,
No.59, Taylors Road, Dowlath Tower,
7th Floor, Chennai-600 010.
...Respondent in all WPs

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorari to call for the records relating to the assessment orders respectively in (i) TIN/33451024164/2010-11 (ii) TIN/ 33451024164/2007-08; (iii) TIN/33451024164/2008-09; (iv) TIN/ 33451024164/2009-10; (v) TIN/33451024164/2011-12; and (vi) TIN/ 33451024164/2012-13 dated 27.5.2015 passed by the respondent and quash the same as arbitrary and illegal.

For Petitioner :Mr.Joseph Prabakar in (All WPs)

For Respondent:Mr.S.Kanmani Annamalai, AGP in (All WPs)

COMMON ORDER

Heard both. By consent, the writ petitions are taken up for final disposal.

2. In all these writ petitions, the petitioner, which is a registered dealer under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (hereinafter referred to as the Act) and the Central Sales Tax Act, 1956, has challenged the orders of assessment dated 27.5.2015 for the assessment years from 2007-08 to 2012-13.

3. The only ground, on which, the impugned orders have been challenged, is by contending that the Assessing Officer

abdicated his statutory duty and confirmed the proposals in the pre-assessment notices merely by referring to the alleged statements given by the petitioner before the Enforcement Wing Officials at the time of inspection.

4. After hearing the learned counsel for the parties and perusing the impugned orders, it is clear that the respondent confirmed the proposals in the show cause notices by stating that all the figures have been accepted by the petitioner before the Enforcement Wing officials at the time of inspection. This Court, in several cases, held that the Assessing Officer has to independently apply his mind and decide the issue and not solely be guided by the report of the Enforcement Wing Officials. If the officer has not applied his mind to the objections raised and merely confirmed the report of the Enforcement Wing, then, the very purpose of calling an officer as the Assessing Officer would lose the meaning as defined under the Act. Therefore, the impugned orders call for interference.

5. Accordingly, the writ petitions are allowed, the impugned orders are set aside and the matters are remitted back to the respondent for fresh consideration. The respondent shall afford an opportunity of personal hearing, independently consider the objections raised by the petitioner, pass a reasoned order and thereafter complete the assessment in accordance with law. No costs. Consequently, the above MPs are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

The Assistant Commissioner (CT),
Amaindakarai Assessment Circle,
No.59, Taylors Road, Dowlath Tower,
7th Floor, Chennai-600 010.



WP.Nos.20244 & 20268 to 20272/
2015 & all connected pending MPs

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srg 30/06/2016