IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2016

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.Nos.25110 & 25111 of 2015
and
M.P.Nos.1,1,2 and 2 of 2015

M/s.M.R.T.Oil Industries,
Rep.By its Managing Partner - S.Eswarasamy
No.4/140, A.K.Nagar,
Kanjampatti Post,
Pollachi. .. Petitioner in both W.Ps

Vs

The Assistant Commissioner(CT),
Pollachi (Rural),
Pollachi. .. Respondent in both W.Ps

Prayer in W.P.No.25110 of 2015: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records on the file of the respondent in TIN:33392283742/2010-11 dated 31.12.2014, quash the same.

Prayer in W.P.No.25111 of 2015: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records on the file of the respondent proceedings in TIN:33392283742/2011-12 dated 31.12.2014, quash the same.

For Petitioner
in both W.Ps : M/s.R.Hemalatha

For Respondent
in both W.Ps : M/s.Vasudha Thiagarajan
Additional Government Pleader.

COMMON ORDER

Heard M/s.R.Hemalatha, learned counsel appearing for the petitioner and M/s.Vasudha Thiagarajan, learned Additional Government Pleader appearing for the respondent and with their consent, the writ petitions are taken up for 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 (TNVAT Act) and in these writ petitions, the petitioner has challenged the orders of assessment for the years 2010-11 and 2011-12. It may not be necessary to refer to the entire facts and it would suffice to take note of the earlier direction issued by this Court in W.P.Nos.26812 and 28613 of 2012 dated 18.10.2012. Those writ petitions were filed by the petitioner challenging the pre-revision notice dated 07.09.2012 dated 09.09.2012. The writ petitions were disposed of by directing the Assessment Officer to furnish the relevant particulars relating to the alleged purchase of copra by the petitioner by bought notes from unregistered sources within a period of two weeks from the date of receipt of a copy of the order and on receipt of the same, the petitioner was granted liberty to file additional objections. In compliance with the direction, the Assessing Officer issued notice to the dealer to come and collect the relevant documents. Accordingly, the copies of statement furnishing the Coconut farmers, Village Administrative Officer's certificate, the identity card issued by the Agricultural Department to the Coconut farmers were furnished to the petitioner. The petitioner submitted a letter dated 17.02.2014 and stated that they have already supplied the necessary documents in support of their statements. However, the Assessing Officer while completing the assessment observed that there is no specific additional objection given by the petitioner and no documents were filed by the petitioner along with their letter dated 17.02.2014. The issue which has to be decided in these cases are whether the petitioner had effected purchases of copra as alleged by the respondent. In the counter affidavit filed by the respondent in paragraph No.9, a specific stand has been taken that agriculturists have given statement that they have supplied copra continuously tot the petitioner and a tabulated statement has been given showing the dates on which statements were recorded from seven agriculturists. Therefore, the respondent has come to the conclusion that the petitioner has purchased copra and the contention of the petitioner that they purchased coconut is incorrect but they purchased is only copra.

3. I have perused the copies of the statements given by the

agriculturists and as a sample, I have gone through the statement of P.Paramasivam. I find from the statement that the said P.Paramasivam has stated that he has supplied coconut. If that be so, then the stand taken in paragraph No.9 of the counter affidavit that there are statements given by the agriculturists that they have supplied copra is factually incorrect. That apart, the identity cards of the agriculturists and other records might be a significant since the allegation against the petitioner is that they have purchased copra from unregistered dealers/farmers as voucher purchase and used in the manufacture of coconut oil. Thus, the respondent has to establish the fact that under the guise of purchase of coconut, the petitioner has purchased copra. The statement placed before this Court do not reveal such a stand taken by the agriculturists. Hence, the finding rendered in the impugned order is not tenable.

4. In the result, these writ petitions are allowed and the impugned orders are set aside and the matters are remanded to the respondent for fresh consideration, who shall make available the agriculturist who has given statement that the petitioner has purchased copra from him and such agriculturist should be made available for cross examination by the petitioner and thereafter the respondent shall re-do the assessment in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

cse

To

The Assistant Commissioner(CT),
Pollachi (Rural),
Pollachi.
1 cc to Special Government Pleader,(Taxes), sr.45426
2 ccs to M/s.R.Hemalatha, Advocate, sr.45496

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svi co
kra 20.09.2016