In the High Court of Judicature at Madras

Dated : 20.6.2016

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.26716 to 26720 of 2015
& MP.Nos.1, 1, 1, 1 and 1 of 2015

H.S.Combines, rep.by its
Partner Sokath Ali, Chennai-2. ...Petitioner in all the WPs

Vs

The Assistant Commissioner (CT),
Anna Salai Assessment Circle,
Greams Road,
Chennai-6. ...Respondent in all the WPs

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorarified Mandamus to call for the entire records of the respondent respectively in TIN : 33920600549/2006-07; TIN : 33920600549/2007-08; TIN : 33920600549/2008-09; TIN : 33920600549/ 2009-10; and TIN : 33920600549/2010-11, dated 5.6.2015, quash the orders passed therein and direct the respondent to redo the assessments as per law.

For Petitioner : Mr.A.P.Srinivas
in all WPs

For Respondent : Mr.V.Haribabu, AGP
in all WPs

COMMON ORDER



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

2. The petitioner, which is a registered dealer on the file of the respondent under the Tamil Nadu Value Added Tax Act, 2006, is before this Court for the second time on the very same issue.

3. Earlier, the petitioner had filed writ petitions in

W.P.Nos.31952 to 31956 of 2014, challenging the orders of assessment passed for the years from 2006-07 to 2010-11. Those writ petitions were allowed with certain directions by a common order dated 5.12.2014. The relevant portions of the common order dated 5.12.2014 read as follows :

> "The petitioner a registered dealer under the Tamil Nadu Value Added Tax Act, 2006 has filed these writ petitions challenging the assessment orders dated 23.10.2014 for the assessment years 2006-07, 2007-08, 2008-09, 2009-10 and 2010-11 respectively. The primary ground on which the impugned orders have been challenged is by stating that no reason has been assigned by the Authority while dealing with the objections given by the petitioner to pre-revision notices dated 20.9.2010. That apart, there is a gross un-explained delay for more than four years from the date of issuance of notice till the date on which the impugned assessment order have been passed. Further, it is submitted that the respondent has merely referred to a clarification issued by the Commissioner dated 9.3.2007 and held that the turnover is liable to be assessed at 12.5%. The said clarification has not been furnished to the petitioner and no opportunity of personal hearing was granted.
>
> Hence, for all the above reasons the impugned assessment orders are held to be bad in law. Accordingly, the writ petitions stand allowed and the impugned assessment orders are quashed. The matters are referred to the respondent for fresh consideration. The respondent shall afford opportunity of personal hearing to the petitioner providing copy of the Commissioner's clarification dated 09.03.2007 and hear the petitioner and pass a reasoned order on merits and in accordance with law."

4. It is seen that in terms of the above directions, the respondent ought to have given a copy of the clarification issued by the Commissioner dated 9.3.2007, heard the petitioner and passed a reasoned order. It is further seen that a notice was issued to the petitioner on 10.4.2015, to which, the petitioner submitted their objections dated 24.4.2015 specifically pointing out the directions issued by this Court in the said writ petitions, apart from contesting the matters on merits. The respondent, by the impugned orders, extracted all

the events, which had taken place earlier, placed the submissions made by the petitioner on record and straightaway, without any discussion and without assigning any reasons whatsoever, passed the very same orders, which were quashed by this Court in the earlier round of litigation.

5. Firstly, the attitude of the respondent hardly reveals that he has absolutely no respect for the orders passed by this Court and he is liable to be proceeded for contempt. The second aspect is that he has abdicated the duties of the Assessing Officer, which is evident from the manner, in which, he has proceeded with the assessments despite the directions issued by this Court in the earlier writ petitions, thereby acting against the interests of the Revenue. Hence, this Court is inclined to quash the impugned orders.

6. Accordingly, the writ petitions are allowed and the impugned orders are quashed. No costs. Consequently, the above MPs are closed.

Sd/-
Assistant Registrar(CS-II)

//True Copy//
Sub Assistant Registrar

To
The Assistant Commissioner (CT),
Anna Salai Assessment Circle,
Greams Road, Chennai-6.

1 cc to M/s.A.P.Srinivas, Advocate, sr.34285
1 cc to Special Government Pleader, (Taxes), sr.34342

WP.Nos.26716 to 26720/2015 &
MP.Nos.1,1,1,1 and 1 of 2015

rp co
kra 29.06.2016