IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.6.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition Nos.22472 to 22477 of 2016

M/s.Jai Hind Wire Rod Mills Ltd.,
rep.by its Director G.E.Govindaraj ...Petitioner in all the WPs

Vs

The Assistant Commissioner (CT),
Shevapet Assessment Circle,
Salem, Salem District. ...Respondent in all the WPs

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Mandamus directing the respondent to consider the reply filed by the petitioner dated 23.6.2015 and 3.7.2015; 20.6.2015 and 3.7.2015; 20.6.2015 and 3.7.2015; 23.6.2015 and 3.7.2015; 23.6.2015 and 3.7.2015; and 20.6.2015 respectively by independent evaluation of the documentary evidence submitted without being solely relied on the audit findings formulated by the Enforcement Wing Audit officials.

For Petitioner : Mr.S.Rajasekar
For Respondent : Mr.S.Manohar Sundaram, AGP

COMMON ORDER

Mr.S.Manohar Sundaram, learned Additional Government Pleader takes notice for the respondent. 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, has filed these writ petitions with an innocuous prayer seeking a direction to the respondent to consider their reply dated 20.6.2015, 23.6.2015 and 3.7.2015 to the notices issued by the respondent dated 9.6.2015 wherein the respondent proposed to make assessment under Section 27 of the Tamil Nadu Value Added Tax Act, 2006 by revising the total and taxable turnover.

3. The petitioner would state that under normal circumstances, such a relief would not be sought for, but the petitioner reasonably apprehends that the respondent will solely be guided by the report of the officials of the Enforcement Wing, who conducted inspection in the petitioner's place of business on 13.2.2015.

4. The petitioner need not have any apprehension in this regard, because the settled legal position is that the Assessing Officer has to independently apply his mind and take a decision in the matter and he cannot be solely guided by the report of the officials of the Enforcement Wing. The report of the officials of the Enforcement Wing could only be taken as a starting point or a cause of action for the respondent to issue a show cause notice. Once a dealer like the petitioner submits their objections, then the Assessing Authority, being the Statutory Authority, has to consider the issues raised in the objections and thereafter proceed to complete the assessment.

5. In the light of the above, the writ petitions are disposed of by directing the respondent to consider the objections raised by the petitioner in their reply dated 20.6.2015, 23.6.2015 and 3.7.2015, afford an opportunity of personal hearing to the petitioner and without being in any manner influenced solely by the report of the officials of the Enforcement Wing, complete the assessment in accordance with law. No costs.

Sd/-
Asst.Registrar (CS VI )

/true copy/

Sub Asst. Registrar

To

The Assistant Commissioner (CT), Shevapet Assessment Circle, Salem, Salem District.

+6 cc's to Ms.R.Hemalatha, Advocate,SR.37021

+1 cc to Spl.Govt.Pleader,SR.37432.

gj(co)
krd 20/7

WP.Nos.22472 to 22477/2016