IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 25.07.2016

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.24895 to 24899 of 2016 &
WMP Nos.21265 t9 21269 of 2016

M/s Harmony Residence Pvt.Ltd.,
rep. by its Director
Mr.S.S.Prasad Babu, New No.11,
12th Avenue, Ashok Nagar
Chennai- 600 083 .. Petitioner in all W.Ps

Vs

The Assistant Commissioner (CT)
Saidapet Assessment Circle
No.55, Govindan Road
West Mambalam, Chennai 600 033.
.. Respondent in all W.Ps.

Common Prayer: These Writ Petitions are filed under Article 226 of the Constitution of India, seeking for issuance of Writ Of Certiorari to call for the records of the respondent in TIN:33706223275/2010-11, 2011-12, 2012-13, 2013-14 & 2014-15 dated 09.06.2016 quash the same as being contrary to the provisions of the Tamilnadu Value Added Tax Act, 2006, apart from being in violation of principles of natural justice.

For Petitioner : Mr.V.Sundareswaran

For Respondents : Mr.S.Manokaran Sundaram
Addl. Government Pleader

C O M M O N O R D E R

Heard Mr.V.Sundareswaran, learned counsel for the petitioner and Mr.S.Manokaran Sundaram, learned Additional Government Pleader appearing for the respondent. With the consent of the learned counsel appearing on either side, the Writ Petitions are taken up for final disposal.

2.The petitioner who is a registered dealer under the provisions of the Tamilnadu Value Added Tax, 2006 [TNVAT Act] and the Central Sales Tax Act, 1959,[CST Act], has filed these Writ Petitions challenging the assessment orders passed by the respondent dated 09.06.2016, for the assessment years 2010-11, 2011-12, 2012-13, 2013-14 & 2014-15. The petitioner has challenged the impugned proceedings on the sole ground that it is the outcome of total non-application of mind and without considering the documents produced by the petitioner.

3.After elaborately hearing the learned counsel for the petitioner on 19.07.2016, the following order has been passed:

> "Notice to the respondent is accepted by Mr.V.Haribabu, learned Additional Government Pleader.
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> 2. The learned counsel for the petitioner pointed out that apart from submitting their objections dated 4.2.2016 to the pre-revision notices, the petitioner also enclosed purchase annexures, purchase invoices and bank statements for the payment made to suppliers and handed over the same to the office of the respondent on 10.3.2016 and that they had been acknowledged by the office of the respondent on the same day as could be seen from the copy of the document at page 81A of the typed set of papers. However, in the impugned orders, the respondent stated that adequate documents have not been furnished.
>
> 3. The learned Additional Government Pleader is directed to get instructions in the matters. Post on 25.7.2016 in the motion list. "

The aforesaid order was passed to enable the learned Additional Government Pleader to get instruction in the matter.

4.The above direction was issued after considering the acknowledgment given in the Office of the respondent on 10.03.2016, which states that the petitioner has furnished copies of the purchase annexures, purchase invoices and Bank Statements for payment made to the suppliers. The respondent while completing the assessments has referred to the objections given by the petitioner and in fact verbatim extracted the same in the impugned orders. The respondent accepted that the objections are elaborate. However, by a cryptic order stated that the petitioner has not filed adequate documents for considering their objections. But, it is the case of the petitioner that the documents were produced which were prima facie established by the acknowledgment given by the Office of the respondent.

5.Therefore, this Court is inclined to accept the stand of the petitioner that they had furnished the documents. Even assuming that the documents were not furnished, nothing prevented the Assessing Officer to issue notice to the petitioner and call for the documents required for completing the assessment. The assessment proceedings is a statutory proceedings and the Assessing Officer has to independently apply his mind to all issues pointed out by the assessee. The report from the Enforcement Wing is not to be accepted in toto by the Assessing Officer and at best, it can be treated only as a material for issuing show cause notice. After receiving reply, the Assessing Officer has to independently apply his mind and take a decision in the matter. Failure to follow such a procedure would amount to abdication of statutory duty. The instant case is a classical example where the Assessing Officer has abdicated his statutory duty. Therefore, this is a sufficient ground to allow the Writ Petitions.

6.Accordingly, the Writ Petitions are allowed, the impugned proceedings are set aside and the respondent is directed to redo the assessments, after considering the documents furnished by the petitioner and after affording an opportunity of personal hearing. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

rpa

To

The Assistant Commissioner (CT)
Saidapet Assessment Circle
No.55, Govindan Road
West Mambalam, Chennai 600 033.

+1cc to Mr.V. Sundareswaran, Advocate, S.R.No.42010
+1cc to the Government Pleader, S.R.No.42002

SV(CO)
EU(11/08/2016)

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