In the High Court of Judicature at Madras

Dated : 25.7.2016

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.25752 to 25754 of 2016
& WMP.No.22077 to 22079 of 2016

Tvl.S.R.Cartons India Pvt. Ltd.,
rep.by its Managing Director
R.Shafiullah ...Petitioner in all the WPs

Vs

The Commercial Tax Officer,
Palacode, Dharmapuri District. ...Respondent in all the WPs

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorari to call for the records on the files of the respondent in TIN.No.33423291701/2012-13, TIN.No.33423291701/2013-14 and TIN.No.33423291701/2014-15 dated 29.3.2016 and quash the same as being without jurisdiction, authority of law and contrary to the principles of natural justice.

For Petitioner : No appearance
For Respondent : Mr.S.Manohar Sundaram, AGP

COMMON ORDER

Mr.S.Manohar Sundaram, learned Additional Government Pleader accepts notice for the respondent.

2. The petitioner has filed these writ petitions challenging the assessment orders passed by the respondent respectively for the years 2012-13, 2013-14 and 2014-15.

3. The petitioner is a private limited company, registered under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (hereinafter called the TNVAT Act) and the Central Sales Tax Act, 1956 on the file of the respondent. They are engaged in the manufacture and sale of corrugated boxes in their factory situated at No.611/2A, Kodiyur Village, Jaythalave Panchayat, Palacode Taluk, Dharmapuri District. The impugned orders have been passed mainly on the ground that they are in violation of the principles of natural justice in as much as the respondent

relied upon certain materials without notice to the petitioner and without furnishing copies thereof.

4. In the affidavits filed in support of these writ petitions, it is stated that the petitioner sent their objection dated 23.10.2014 to the pre-revision notices dated 26.9.2014, followed by another objection dated 16.3.2015. The gist of the objections raised by the petitioner is that the plant and machinery embedded in the earth are only immovable goods and cannot be regarded as movable goods and that the amount of rent received for the use of plant and machinery, cannot lawfully be assessed to tax under Section 4 of the TNVAT Act.

5. After a lapse of a year, the impugned assessment orders have been passed. On a perusal of the impugned orders, it is evidently clear that they have been passed by relying upon the reports given by (i) the Inspector General of Registration, Chennai, (ii) the District Registrar, Dharmapuri and (iii) the Sub-Registrar, Palacode respectively dated 28.10.2013, 8.2.2015 and 28.8.2015. Admittedly, copies of these reports were not furnished to the petitioner nor the petitioner was granted an opportunity to put forth their objections as to the admissibility and veracity of those documents. Therefore, on this ground, the petitioner is entitled to succeed.

6. Accordingly, the writ petitions are allowed, the impugned orders are set aside and the matters are remitted back to the respondent with a direction to the respondent to furnish the copies of the reports received from (i) the Inspector General of Registration, Chennai, (ii) the District Registrar, Dharmapuri and (iii) the Sub-Registrar, Palacode respectively dated 28.10.2013, 8.2.2015 and 28.8.2015, to the petitioner within a period of 15 days from the date of receipt of a copy of this order and after affording an opportunity of personal hearing, consider all the documents that they may produce and thereafter proceed to redo the assessment in accordance with law. Consequently, the above WMPs are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

The Commercial Tax Officer,
Palacode, Dharmapuri District.

+ 1 cc to Mr.R. Senniappan, Advocate Sr.42314

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BVR(CO)
Eu 08.08.16