IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.07.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.Nos.26593 to 26597 of 2016
and
W.M.P.Nos.22783 to 22787 of 2016

M/s.Dharan Natural Stone Park,
rep.by its Manager M.Ramkumar,
No.77, Seelanaickanpatti bye pass
Salem-636 201 ... Petitioner in all the W.Ps.

vs.

The Assistant Commissioner(CT),
Salem Rural Circle,
Salem ... Respondent in all the W.Ps.

Writ petitions filed under Article 226 of the Constitution of India praying for a writ of certiorari mandamus to call for the records of the respondent in TIN No.33732705020/2010-11 to 2014-15, respectively, and quash the order dated 30.06.2016.

For Petitioner : Mr.A.Muralikrishnan
For Respondent : Mr.Manokaran Sundaram,A.G.P.

COMMON

Heard Mr.A.Muralikrishnan, learned counsel for the petitioner and Mr.Manokaran Sundaram, learned Additional Government Pleader appearing for the respondent and with the consent of either parties, the writ petition itself is taken up for final disposal.

2. The petitioner is a registered dealer under the provisions of the Tamil Nadu Value Added Act, 2006 and the Central Sales Tax Act, 1956, on the file of the Assistant Commissioner(CT), Salem Rural Circle, Salem. In these writ petitions, the petitioner has challenged the order of assessment passed under the provisions of the Tamil Nadu Value Added Tax Act, 2006, for the assessment years 2010-11 to 2014-15.

3. The learned counsel for the petitioner would fairly admit that inspite of sufficient time granted to the petitioner to file objections and the assessing officer having waited for 160 days, the petitioner did not submit their objections. However, it is submitted that no details were furnished to the petitioner and therefore, they were unable to meet the allegation in the show cause notice, because, the show cause notice was vague.

4. If that be the case, then nothing prevented the petitioner from appearing before the assessing officer and make a request in writing that they should be furnished with details. However, this exercise has not been done. Therefore, the petitioner cannot plead that there is violation of principles of natural justice.

5. However, the learned counsel for the petitioner submits that if details are furnished to the petitioner they would be in a position to demonstrate that the reversal of ITC, as done in the impugned proceedings, would not arise. Therefore, the learned counsel for the petitioner pleads that one more opportunity be granted to the petitioner.

6. While not approving the conduct of the dealer in not submitting objections, in the interest of dealer as well as the interest of the Revenue, this Court is inclined to pass the following order:

> The petitioner is directed to remit 15% of the disputed tax for each of the assessment years within a period of three weeks from the date of receipt of a copy of this order. If the petitioner complies with the said condition, then they can make a request to the respondent to supply the documents and details. After which, they can submit their objections, which shall be considered by the respondent and after affording an opportunity of personal hearing to the petitioner, the respondent shall re-do the assessments. However, if the petitioner fails to remit the money within the time prescribed, the benefit of this order will not enure to them and the writ petition would stand automatically dismissed, however, leaving it open to the petitioner to work out their remedies in the manner known to law.

7.The writ petitions are disposed of accordingly. No costs. Connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

msk

To

The Assistant Commissioner(CT),
Salem Rural Circle,
Salem

+1cc to Mr.L. Muralikrishnan, Advocate, S.R.No.43123
+1cc to the Government Pleader, S.R.No.43237

SV(CO)
EU(02/09/2016)

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