IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.08.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.28225 and 28226 of 2016

M/s.Velumani Dyeing Factory,
Rep. By its Prop.S.Muthusamy,
8/30, Kulathupalayam,
Bhavani Taluk, Erode District. ... Petitioner in both WPs.

Vs.

The Assistant Commissioner (CT),
Bhavani Assessment Circle,
Bhavani, Erode District. ... Respondent in both WPs.

COMMON PRAYER: Writ Petitions filed under Article 226 of Constitution of India praying to issue Writ of certiorari to call for the records of the respondent in his proceedings in TIN Nos.33342942157/2008-09 and 33342942157/2009-10, dated 05.08.2015 and 27.08.2015 respectively, and quash the same as illegal.

For Petitioner : Mr.S.Ramanathan
For Respondent : Mr.S.Diwakar, Spl.GP

COMMON ORDER

Heard Mr.S.Ramanathan, learned counsel for the petitioner and Mr.S.Diwakar, learned Special Government Pleader, who accepts notice for the respondent and with their consent, the writ petitions themselves are taken up for disposal.

2. The petitioner is a registered dealer on the file of the respondent under the Tamil Nadu Value Added Tax Act, 2006 and the Central Sales Tax Act, 1956. The petitioner has challenged the orders of assessments dated 05.08.2015 and 27.08.2015 for the years 2008-09 and 2009-10 respectively under the State Act.

3. The ground, on which, the impugned orders are challenged, is by contending that no pre-revision notice was received by the petitioner, though, in the impugned order, it is stated that the dealers were served with a notice, they did not file objections. It is seen that the impugned orders are dated 05.08.2015 and 27.08.2015 and there is a reference to a notice dated 6.4.2015 and 06.03.2015 respectively. However, there is

some overwriting in the date and it is not clear as to the correct date, on which, the notice was issued and the correct date, on which, the assessments orders were passed.

4. Be that as it may, the respondent has not given effect to the impugned orders for all these years. It is stated that the petitioner represented to the respondent stating that they have not received the pre-assessment notice and therefore, the matter was kept in cold storage. Now, there is a threat of recovery, which has compelled the petitioner to approach this Court.

5. Though, in the impugned order, it is stated that the notice was duly served on the petitioner, there is no specific reference as to on what date, the notice was served. In my view, this should also be stated in the impugned order so as to avoid any false plea raised by the dealers. In any event, the impugned orders having not been given effect to for two years, this Court is of the view that the assessments should be redone after granting an opportunity to the petitioner.

6. Accordingly, the writ petitions are disposed of with a direction to the petitioner to treat the impugned orders as a show cause notice and submit their objections within a period of two weeks from the date of receipt of a copy of this order. On receipt of the objections, the respondent shall afford an opportunity of personal hearing to the petitioner and redo the assessment in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

The Assistant Commissioner (CT),
Bhavani Assessment Circle,
Bhavani, Erode District.

+1 cc to M/s.S.Ramanathan Advocate sr 46252
+1 cc to Special Government Pleader Taxes sr 46434

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