IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.08.2016

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.Nos.28508 & 28509 of 2016
&
WMP Nos. 24617 & 24618 of 2016

M/s Faza Leathers
rep. by its Partner M.Adeel Ahmed Sadaf,
Vellore District. .. Petitioner in both W.Ps.

..Vs..

1.The Assistant Commissioner (CT)
Vaniyambadi Assessment Circle
Vaniyambadi, Vellore District.
.. Respondent in both W.Ps.

Common Prayer:

Writ Petitions filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorari to call for the records of the respondent in his proceedings in TIN 33584643308/2012-13 & 2013-2014 respectively Dated 30.05.2016 and quash the same as illegal.

For Petitioner : Mr.S.Ramanathan

For Respondents: Mr.S.Kanmani Annamalai
Addl.Government Pleader

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O R D E R

Heard Mr.S.Ramanathan, learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader, accepting notice on behalf of the respondent. By consent, the Writ Petition are taken up for final disposal.

2.The petitioner is a dealer in Hides and Skins and are tanners and exporters of leathers and they are registered on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax, 2006 and Central Sales Tax Act, 1956. In these Writ Petitions, the petitioner has challenged the orders of assessment for the years 2012-13 and 2013-14. The place of business of the petitioner was inspected by the Enforcement Wing officials, Vellore on 20.03.2015, 24.03.2015 to 26.03.2015 and during the course of inspection, it appears that they noticed certain defects. On report being given to the Assessing Officer-respondent, he issued a pre-assessment notice dated 29.03.2016, pointing out the defects and proposing to revise the total and taxable turnover and reversal of Input Tax Credit. The petitioner filed their objections dated 15.4.2016. However, the respondent while completing the assessment, in a single line, stated that at the time of inspection, the dealer has accepted the defects.

3.Repeatedly, this Court has held that the Assessing Officer being an independent statutory authority, should apply his mind and complete the assessment and if he does not do so, it would amount to abdication of his statutory powers. The instant case is a clear example to total abdication of the statutory powers of the Assessing Officer. Further, it is not known as to how the respondent has recorded as if the petitioner has accepted the defects before the Enforcement Wing Officials. From the statement recorded from the petitioner on 26.3.2015, by the Enforcement Wing, the petitioner has clearly stated that the alleged RC cancelled dealers are in fact registered dealers and stated that all of them have been filing their 'E-Returns'. In the typed set of papers, the petitioner has enclosed copies of the 'E-Returns' of those dealers.

4.In such circumstances, it is rather surprising as to how the respondent could have stated that the petitioner has admitted the defects. Thus, considering the overall circumstances, it has to be held that the impugned orders are illegal orders and outcome of total non application of mind.

5.Accordingly, the Writ Petitions are allowed, the impugned orders are set aside and the matter is remanded to the respondent for fresh consideration, who shall consider all the objections given by the petitioner in seriatem by affording an opportunity of personal hearing and complete the assessment by passing a speaking order. No costs.

rpa

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1.The Assistant Commissioner (CT)
Vaniyambadi Assessment Circle
Vaniyambadi, Vellore District.

+ 1 cc to Mr.S.Ramanathan, Advocate Sr 47058

+ 2 ccs to The Spl.Govt.Pleader (Taxes), Hct, Mds-104. Sr 47045 & 46890

KR/9/9/16

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