IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.08.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.28970 to 28975 of 2016 and

WMP Nos.25052 to 25057 of 2016

M.Sadasivam, Contractor ... Petitioner in W.P.No.28970/2016

Tvl.S.S.D & Co
Rep by its Proprietor P.Selvam
Sengattanoor Thuttampatty (Po) Omalur (Tk)
Salem(Dt) ...Petitioner in W.P.No.28971/2016

Thiru S.R.Selvaraj
Contractor Amman Constructions
...Petitioner in W.P.No.28972/2016

Tvl.P.C.Palanisamy
Contractor ...Petitioner in W.P.No.28973/2016

Thiru K.C.Saravanan
Contractor ...Petitioner in W.P.No.28974/2016

Tvl.K.Palanisamy
Contractor ...Petitioner in W.P.No.28975/2016

-vs-

The Assistant Commissioner (CT),
Omalur Assessment Circle,
Omalur, Salem District. ... Respondent.

Prayer in W.P.No.28970 to 28975 of 2016: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records on the files of the respondent in (i)TIN No.33663245591/2012-13 dated 30.03.2015 (2) TIN. 33383244096/2012-13 dated 29.06.2015 (3)TIN. 33133244670/2012-13 dated 29.05.2015 (4)TIN. 33553243469/2012-13 dated 29.05.2015 (5)TIN. 33023247398/2012-13 dated 29.05.2015 (6)TIN. 33073244412/2012-13 dated 29.05.2015 and quash the same as being contrary to principle laid down by this Court in the Judgment reported in (2007) 295 ITR 303 (Mad) (V.Selladurai V. Chief Commissioner of Income-Tax (OSD) and another)

For Petitioners
all WPs : Mr. R.Senniappan

For Respondent
all WPs : Mr.S.Kanmani Annamalai
Additional Government Pleader

COMMON ORDER

Heard both. By consent, the Writ Petitions are taken up for final disposal.

2. The petitioners, who are registered contractors of the Public Works Department and who are registered dealers on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006, have filed these Writ Petitions, challenging the orders of assessment for 2012-2013.

3. Two grounds have been raised by the learned counsel for the petitioners. First is that the impugned orders have been passed without affording an opportunity of personal hearing. In support of his contention, reliance has been placed on the decision of the Hon'ble Division Bench of this Court in the case of V.Selladurai Vs. Chief Commissioner of Income Tax (OSD) and another [(2007 295 ITR 303].

4. The second ground raised by the learned counsel for the petitioners is that the petitioners have filed monthly returns and also paid tax and after due verification, the previous incumbent, who was functioning as the Assistant Commissioner (CT), Omalur Assessment Circle, was satisfied with the returns and issued certificates under Form S. The respondent erroneously observed in the impugned orders that no monthly returns have been filed and that the petitioners have not reported the turnover liable to tax.

5. In the light of the fact that the petitioners have not been afforded an opportunity of personal hearing as mandated and as pointed out by the Hon'ble Division Bench in the above referred to decision, this Court is of the view that the matters should be decided afresh after due opportunity to the petitioners.

6. Accordingly, the Writ Petitions are allowed, the impugned orders are set aside and the matters are remitted back to the respondent for fresh consideration. The respondent is directed to afford an opportunity of personal hearing to the petitioners. While doing so, the respondent shall verify as to the correctness of the submissions made by the petitioners that they filed returns and paid taxes and that the officer concerned,

having been satisfied with the same, had issued the certificates under Form S. The respondent can call for the entire files relating to the petitioners and thereafter proceed in accordance with law. The petitioners are at liberty to exercise their option under Section 6 of the said Act, which shall be considered on merits and in accordance with law. No costs. Consequently, the above Mps are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

The Assistant Commissioner (CT),
Omalur Assessment Circle,
Omalur, Salem District.

+1cc to M/S.R.Senniappan, Advocate Sr.47367
+1cc to the Government Pleader Sr.47681

W.P.Nos.28970 to 28975 of 2016 and

WMP Nos.25052 to 25057 of 2016

ppa[co]

srg 20/09/2016