In the High Court of Judicature at Madras

Dated : 23.11.2017

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.30082 to 30087 of 2017
& WMP.Nos.32650 to 32655 of 2017

M/s.Amit Industrial Corporation,
rep.by its Partner Mr.Amit Kumar
Trivedi ...Petitioner in all WP's

Vs

The Commercial Tax Officer,
Mooremarket Assessment Circle,
No.48/39, I Floor, Wavoo Mansion,
Rajaji Salai, Chennai-1. ...Respondent in all WP's

Common prayer in WP. Nos.30082 to 30087 of 2017

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorari to call for the records of the respondent in TIN No.33030360042/2009-10, TIN No.33030360042/2010-11, TIN No. 33030360042/2011-12, TIN No.33030360042/2012-13, TIN No. 33030360042/2013-14 and TIN No.33030360042/2014-15, all dated 21.7.2017 and quash the same as unjust, illegal and against the principal of natural justice.

For Petitioner in all WP's : Ms.C.Rekha Kumari
For Respondent in all WP's: Mrs.Narmadha Sampath, SGP

COMMON ORDER

Mrs.Narmadha Sampath, learned Special Government Pleader accepts notice for the respondent. Heard both. By consent, the writ petitions are taken up for joint disposal.

2. The petitioner is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 and the Central Sales Tax Act, 1956. They are stated to be assessed on the file of the respondent for merely 50 years and are dealers in iron and steel.

3. The petitioner is aggrieved by the impugned orders, which are assessment orders for the years 2009-10 to 2014-15. The impugned orders are challenged on the ground that they are in violation of the principles of natural justice. To test the correctness of the said stand, this Court will examine the

facts.

4. On a perusal of the materials placed in the typed set of documents, the show cause notices dated 30.11.2015 were issued initially proposing to revise the turnover, based on the details culled out from the official website of the Department stating that there is discrepancy. On receipt of the notices dated 30.11.2015, the petitioner sent a representation dated 14.12.2015 for furnishing details of sales and purchases mentioned in Annexure I and Annexure II so as to enable them to trace out the details from their files. Though such a request was made to the respondent, it appears that the details were not furnished.

5. Subsequently, the second show cause notices dated 27.1.2017 were issued for the same assessment years containing the very same proposal. Admittedly, the petitioner did not give their objections to the notices dated 27.1.2017. The respondent also did not take any further action. But, only on 09.6.2017, the respondent decided to issue the revision notice for one of the assessment years namely 2009-10. After 15 days, the revised show cause notices dated 21.6.2017 were issued for the remaining assessment years i.e. 2010-11 to 2014-15.

6. On receipt of the second set of show cause notices, the petitioner made a request on 30.6.2017 stating that they had collected all the records such as monthly returns from the dealers mentioned in the second show cause notices and that since their accounting staff were busy with the GST training programme, they were unable to arrange the records and prepare a reply. The petitioner requested 30 days extension of time. This representation was received by the respondent on 10.7.2017 and ten days time was granted. Thus, the petitioner ought to have submitted their reply by 20.7.2017.

7. However, it appears that the petitioner did not submit their reply nor appeared before the Assessing Officer. However, the respondent completed the assessments and passed the impugned orders stating that the petitioner has not even made a request for grant of extension of time and that therefore, she was left with no option except to confirm the proposal made in the show cause notices.

8. This finding rendered by the respondent is incorrect, because the documents produced would show that the request for extension of time was received in the office of the respondent duly signed and sealed on 10.7.2017 and ten days time was granted. Therefore, it is not a case where the petitioner did not seek extension of time. That apart, considering the fact that the proposal to the revised assessments was initiated in the year 2015 and it is not completed till date, the respondent

could have afforded one more opportunity to the petitioner to appear before her and submit their objections. Thus, this Court finds that the petitioner is partially right in stating that there has been a violation of the principles of natural justice.

9. Thus, taking note of the above factual position that the revision of assessment is sought to be made from 2009-10 onwards and undoubtedly several records will have to be perused, this Court is of the view that one more opportunity can be granted to the petitioner to go before the Assessing Officer.

10. In the light of the above discussions, the writ petition is disposed of with a direction to the petitioner to treat the impugned proceedings as show cause notices and submit their objections along with the documents, books of accounts, etc., which they seek to rely upon, within a period of 15 days from the date of receipt of a copy of this order. On receipt of the same, the respondent shall fix a date for personal hearing and proceed to complete the assessments. During the process of redoing the assessments, if any more document is required from the petitioner, the Assessing Officer shall direct the petitioner to produce the same and after considering all the documents and taking note of the petitioner's objections, the assessments shall be redone in accordance with law. Till such exercise is completed, no coercive action shall be initiated against the petitioner. No costs. Consequently, the connected WMPs are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To
The Commercial Tax Officer,
Mooremarket Assessment Circle,
No.48/39, I Floor, Wavoo Mansion,
Rajaji Salai, Chennai-1.

+6cc to Mr.C.REKHA KUMARI Advocate, S.R.No. 83899
+1cc to the Government Pleader, S.R.No. 83931

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NMI(CO)
TR(13/12/2017)