IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.07.2017

Coram

The Hon'ble Mr.Justice T.S.Sivagnanam

Writ Petition No.6750 and 6751 of 2017
and
W.M.P.Nos.7305 and 7306 of 2017

M/s.Surya Sri Constructions,
rep. by its Proprietor,
No.17/10, Sai Nagar, Third Street,
Jawahar Nagar,
Chennai - 600 082. ...Petitioner in both W.Ps.

Vs.

The Commercial Tax Officer,
Perambalur Assessment Circle,
Chennai - 600 099. ...Respondent in both W.Ps.

Writ Petitions, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for the records of the respondent in his proceedings of the assessment orders in Rc.No.103/2016 (B1)2014-15 and 2015-16 respectively, dated 19.01.2017, and to quash the assessment proceedings as illegal and to direct the respondent to pass fresh orders by the principle of law.

In both W.Ps.

For Petitioner : Mr.C.Baktha Siromoni
For Respondent : Mr.K.Venkatesh
Government Advocate

COMMON O R D E R

Heard Mr.C.Baktha Siromoni, the learned counsel appearing for the petitioner and Mr.K.Venkatesh, the learned Government Advocate for the respondent. With the consent of parties, the Writ Petitions are taken up for final disposal.

2. The petitioner, who is a registered dealer, on the file of the respondent, under the provisions of Tamil Nadu Value Added Tax Act, 2006, (hereinafter, referred to as, 'TNVAT Act') has filed these Writ Petitions, challenging the assessment orders for the years 2014-15 and 2015-16, under the TNVAT Act.

3. The assessment orders have been assailed on the grounds of i) Violation of principles of natural, ii) Non consideration of issues pointed in the objections, and iii) Completing the Assessment by a non-speaking order.

4. On receipt of the notices, dated 03.08.2016, the petitioner has submitted their objections, dated 31.08.2016, which has been received by the Department on 29.09.2016. In the objections, the petitioner raised various contentions, including the contention that, they are entitled for paying the tax at 2% compounding rate under Section 6 of the TNVAT Act. Apart from that, the petitioner has also contested the working done by the Assessing Officer, fixing the labour charges at 30%. Further, the petitioner stated that, they have not have given a copy of the proceeding of the Deputy Commissioner (CT) Enforcement (Central), Chennai, dated 30.03.2016, which formed the basis for issuance of the show cause notices, dated 03.08.2016. The Assessing Officer has brushed aside all these issues pointed out by the petitioner, in their objections and completed the assessment. The impugned orders are totally in violation of the principles of natural justice and liable to be set aside for not considering the issues pointed out by the petitioner.

5. Hence, for the reasons stated herein above, this Court is inclined to interfere with the impugned orders passed by the respondent. Accordingly, the Writ Petitions are allowed, and the impugned orders are set aside, with a direction to the respondent to furnish a copy of the proceedings of the Deputy Commissioner (CT) Enforcement (Central), Chennai, dated 30.03.2016, after which, the petitioner is directed to submit their objections within a period of 15 days therefrom, and on receipt of the objections, the respondent is directed to afford an opportunity of personal hearing and redo the assessment in accordance with law. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

Sd/-
Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

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To

The Commercial Tax Officer,
Perambalur Assessment Circle,
Chennai - 600 099.

+1cc to Mr.C.Baktha Siromoni, Advocate Sr. 46397

+1cc to the Special Government Pleader (Taxes) Sr. 46442

Writ Petition No.6750
and 6751 of 2017

VGI(CO)
VR(24/07/2017)