IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2017

CORAM :

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P. Nos.25601 and 25602 of 2017
and
W.M.P.Nos.26991 to 26994 of 2017

Tvl. Bharath Agri International Trading Pvt. Ltd.,
Rep. by its Managing Director Mr.Vummidi Barath,
Mylai Ranganathan Street,
T.Nagar, Chennai 600 017. ...Petitioner in both WPs

Vs.

The Commercial Tax Officer,
Office of the Assistant Commissioner (CT),
T. Nagar, Assessment Circle,
Chennai 600 028. ...Respondent in both Wps

Prayer : Petitions filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the proceedings of the respondent in TIN 33791582115/2014-15 and 2015-16 respectively dated 09.05.2017 and the consequential proceedings in TIN 33791582115/2014-15 dated 30.06.2017 and quash the same

For Petitioner in both Wps : Mr.S.Raveekumar

For Respondent in both Wps : Mr.S.Kanmani Annamalai,
Additional Government Pleader

O R D E R

Heard Mr. Raveekumar, learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader for the respondent.

2. With the consent on either side, the writ petitions are taken for disposal.

3. The petitioner, who is a registered dealer on the file of the respondent, has filed these writ petitions, challenging the orders of assessment passed by the respondent under the Tamil Nadu Value Added Tax Act, 2006 for the assessment years 2014-15 and 2015-16 and consequential demand notice.

4. The petitioner has challenged the impugned orders on the ground that they are in violation of the principles of natural justice as they did not have adequate opportunity to put forth their objections to the revision notices dated 30.03.2017 and received by them on 06.04.2017. The explanations that is sought to be given is that the Audit Team had conducted an inspection in the business premises of the petitioner on 05.04.2017 and seized all the records and those records were given to the petitioner only on 31.08.2017, owing to which the petitioner could not submit their objections to the revision notices dated 30.03.2017. It is pointed out by the learned counsel for the petitioner, that though they are revision notices issued under Section 19(16) of the Tamil Nadu Value Added Tax Act, the respondent has virtually pre-decided the issue and the notices are demand for payment of tax of Rs.1,31,46,211/- for the assessment year 2014-15 and Rs.1,06,94,386/- for the assessment year 2015-16.

5. Considering the peculiar facts and circumstances of the case and taking note of the fact that the original files were seized by the Enforcement Wing and returned to the petitioner only on 31.08.2017, this Court is inclined to grant an opportunity to the petitioner to put forth their objections.

6. Accordingly, the writ petitions are disposed of by directing the petitioner to treat the impugned orders as show cause notices and submit their objections within a period of 15 days from the date of receipt of copy of this order. On such objections being submitted, the respondent shall consider the same and afford an opportunity of personal hearing and re-do the assessment in accordance with law. Needless to state that the respondent should have independent mind and should not be solely guided by the observations of the Enforcement Wing and should consider the materials placed by the petitioner and take a decision in the matter, and complete the assessment in accordance with law. While passing orders the respondent shall take note of the decision of this Court in the case of M/s. Infiniti Wholesale Ltd., Vs. The Assistant Commissioner (CT)

reported in (2015) 82 VST 457 (Mad), which was affirmed by the Hon'ble Division Bench in Writ appeals No.775 of 2016 dated 09.09.2016. No Costs. Consequently connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

The Commercial Tax Officer,
Office of the Assistant Commissioner (CT),
T. Nagar, Assessment Circle,
Chennai 600 028.

+2cc to Mr.S.Raveekumar, Advocate, S.R.No.70461

W.P. Nos.25601 and 25602 of 2017

CS/01/11/17