IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.08.2017

Coram

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition No. 16373 and 16374 of 2006
and
W.P.M.P.Nos.15834 and 15836 of 2006

Sree Rajaakondalu Spinners,
rep. by its Proprietrix S.Leelavathy,
No.8, Balasubramania Nagar,
Peelamedu, Coimbatore.
...Petitioner in both Writ Petitions

Vs.

The Deputy Commercial Tax Officer,
Peelamedu South Circle,
Coimbatore. ...Respondents in both Writ Petitions

Writ Petitions, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for records, relating to the proceedings in TNGST No.2101012/2003-04 and 2002-03 respectively, dated 31.03.2006, on the file of the respondent herein and to quash the same.

For Petitioner in both Writ Petitions : Mr. R. Bharanidharan

For Respondent in both Writ Petitions : Mr. K. Venkatesh
Government Advocate

COMMON ORDER

Heard Mr.R.Bharanidharan, the learned counsel appearing for the petitioner, and Mr.K.Venkatesh, learned Government Advocate for the respondent.

2. The petitioner, who is a registered dealer on the file of the respondent, under the provisions of the Tamil Nadu General Sales Tax Act, 1959, is aggrieved by the orders of assessment passed by the respondent, for the assessment years 2002-03 and 2003-04 respectively.

3. The place of business of the petitioner was inspected by the Enforcement Officials on 03.09.2003, and six defects were pointed out, pursuant to such inspection. Based on such inspection report, the respondent issued notices dated 06.03.2006, proposing to revise the total and taxable turn over of the petitioner. The petitioner submitted an elaborate explanation. However, the explanation has been rejected by a single line order, stating that the reply/explanation submitted by the dealer/petitioner is not acceptable, and the defects have been admitted by the petitioner at the time of inspection.

4. The impugned orders have been assailed two grounds. Firstly, by contending that the impugned orders are in total violation of principles of natural justice, as there is no reason assigned by the respondent to state as to why the objection/explanation of the petitioner is not acceptable. Secondly, it is contended that the Assessing Officer, being an independent Authority, cannot be solely guided by the report of the Enforcement Officials, and when the dealer (petitioner) submitted their objections to the pre-revision notice, the Assessing Officer has to independently apply his mind and conduct enquiry and then, complete the assessment, and not in the manner, as done in the present cases. Both the above contentions are fully sustainable, as the impugned order is devoid of reasons and the Assessing Officer has abdicated his statutory duties. This is sufficient to hold that the impugned orders are unsustainable in law.

5. For the above reasons, both Writ Petitions are allowed, and the impugned orders stand quashed and the matter is remanded to the respondent for fresh consideration, who shall afford an opportunity of personal hearing to the petitioner, and redo the assessment in accordance with law. The amount of Tax, which has been remitted by the petitioner, pursuant to the interim orders passed by the Court, shall abide by the fresh orders to be passed by the respondent in the de novo proceedings, as directed above. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

To

The Deputy Commercial Tax Officer,
Peelamedu South Circle,
Coimbatore.

+ 2 cc to M/s.R.Karthikeyan, Advocate,SR.55136,55137

+ 1 cc to The Special Govt.Pleader(Taxes), SR.54977

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NR 14/09/2017