In the High Court of Judicature at Madras

Dated : 16.4.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.9205 to 9209 of 2018 &
WMP.Nos.11026 to 11030 of 2018

M/s.Rayal Dry Fruits, rep.
by its Proprietor Mr.Lalit Jain
Door No.986, R.G. Street,
Coimbatore. ..Petitioner in all WPs.

Vs

The Assistant Commissioner (CT)
(FAC), R.G.Street Assessment Circle,
Coimbatore-18. ..Respondent in all WPs.

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 Ref. TIN 33171760936/2010-11, TIN 33171760936/2011-12, TIN 33171760936/2012-13, TIN 33171760936/2013-14 and TIN 33171760936/ 2014-15, all dated 28.2.2018 and and quash the same as illegal and unjustified being contrary to the provisions of the Tamil Nadu Value Added Tax Act, 2006.

For Petitioner : Mr.V.Sundareswaran
For Respondent : Mr.M.Hariharan, AGP

COMMON ORDER

Mr.M.Hariharan, learned Additional Government Pleader accepts notice for the respondent. Heard both. By consent, the writ petitions are taken up for joint disposal.

2. The petitioner is aggrieved by the orders of assessment passed by the respondent for the years 2010-11 to 2014-15 in confirming the proposal made in the revision notices dated 25.1.2018.

3. For all the assessment years, the respondent proposed to revise the turnover and disallow the exemption claimed by the petitioner on the ground that they supplied raw materials to

M/s.Krishna Sweets and that those raw materials were used by them as an industrial input. The respondent stated that in terms of Rule 6(3)(b) of the Tamil Nadu Value Added Tax Rules, 2007, the petitioner ought to have produced necessary certificate obtained from the manufacturers, to whom, the goods were sold as industrial inputs. Since the same was not produced and the petitioner having not responded to the revision notices dated 25.1.2018, the respondent confirmed the proposal and passed the impugned orders.

4. In my considered view, the respondent was fully justified in completing the assessment in the manner done, since the petitioner failed to respond to the revision notices dated 25.1.2018. After the impugned assessment orders were served on the petitioner, they approached the Authority and filed the petition dated 30.3.2018 under Section 84 of the said Act commonly for all the relevant years to revise the assessment and along with the petition dated 30.3.2018, the petitioner enclosed five original industrial input certificates for the periods from 2010-11 to 2014-15. The petition 30.3.2018 has been received in the office of the respondent on 06.4.2018. Since the said petition is pending before the Authority concerned, this Court is inclined to issue appropriate directions, so that the petition dated 30.3.2018 can be considered on merits and in accordance with law.

5. In the light of the above, the writ petitions are disposed of by directing the respondent to consider the petition dated 30.3.2018 filed under Section 84 of the said Act, which was received by the office of the respondent on 06.4.2018, afford an opportunity of personal hearing, peruse the industrial input certificates and redo the assessments in accordance with law. The above exercise shall be completed within three weeks from the date of receipt of a copy of this order. Till then, no coercive action shall be initiated against the petitioner for recovery of the tax and penalty as quantified in the impugned assessment orders. No costs. Consequently, the connected WMPs are closed.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

To

The Assistant Commissioner (CT) (FAC),
R.G.Street Assessment Circle,
Coimbatore-18.

+ 1 cc to Mr. V. Sundareswaran, Advocate Sr.28233
+ 1 cc to Mr. Special Government Pleader Sr.28542

WP.Nos.9205 to 9209 of 2018 and
WMP.Nos.11026 to 11030 of 2018

NRL(CO)
EU(17/05/2018)