IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.04.2018
Coram

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

Writ Petition Nos.6283 to 6286 of 2018
and
W.M.P.Nos.7770 to 7773 of 2018

Tvl. Sri Vasta Real Estates Pvt. Ltd.,
rep. by its Director, C.S.Ramaswamy. ...Petitioner in all W.Ps.

Vs.

The Assistant Commissioner (CT)
Thudiyalur Circle, Coimbatore. ...Respondent in all W.Ps.

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for records from the files of the respondent, in TIN No.33502023382/2012-13, 2013-14, 2014-15 and 2015-16, respectively dated 01.02.2018, and to quash the same as being without jurisdiction.

For Petitioner : Mr.R.Senniappan
For Respondent : Mrs.G.Dhanamadhri
Government Advocate (Tax)

COMMON ORDER

Heard Mr.R.Senniappan, the learned counsel appearing for the petitioner and Mrs.G.Dhanamadhri, the learned Government Advocate (Tax) appearing on behalf of the respondent. Since the issue involved in all these Writ Petitions is identical, they were heard together and disposed of by this common order.

2. The petitioner, who is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (the TNVAT Act, for brevity) has filed these Writ Petitions, challenging the assessment orders passed by the respondent under the TNVAT Act, for the years 2012-13, 2013-14, 2014-15 and 2015-16, dated 01.02.2018.

3. The allegation against the petitioner is that, the selling dealers have not paid taxes. On receipt of the pre-revision notices, dated 22.09.2016, the petitioner submitted replies/objections on 03.10.2016, enclosing the copies of certain decisions rendered by this Court with regard to the mismatch issue, and as to how, the purchasing dealer cannot be penalized for the fault committed by the selling dealer. Though the respondent has accepted the receipt of the objections and referred to the same in the impugned assessment orders, has not been discussed even a word about the stand taken by the petitioner and rejected the objections by a single line, stating that, objections were overruled. Thus, the manner, in which, the respondent has passed the impugned orders is unsustainable in the eye of law.

4. As rightly pointed out by the learned counsel appearing for the petitioner, the Hon'ble Supreme Court, in Steel Authority of India Ltd., Vs. STO, Rourkela-I, Circle, reported in [(2008) 16 VST (SC)] has held that, 'the reason is the heartbeat of every conclusion and it introduces clarity in an order and without the same, it becomes lifeless'. Further, with regard to the role of the Assessing Officer, it was held that, 'an order cannot be passed by the Assessing Officer without examining the various issues raised and without passing a reasoned order'. In the instant case, the respondent has clearly violated the mandate prescribed by the Hon'ble Supreme Court, in the above referred decision. In the light of the said decision, I find that the impugned orders are wholly unsustainable.

5. Thus, for the reasons stated hereinabove, these Writ Petitions are allowed, the impugned orders are set aside, and the matters are remanded to the respondent for fresh consideration. The respondent is directed to fix a date for personal hearing of the Authorized Representative of the petitioner, peruse the documents that may be produced, and if the petitioner requires any further documents, the same shall be furnished and after conducting a full-fledged hearing, the respondent is directed to pass fresh orders on the assessment with a detailed reason. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.



Sd/-
Assistant Registrar(CS IV)

//True copy//

Sub Assistant Registrar

sd

To

The Assistant Commissioner (CT)
Thudiyalur Circle, Coimbatore.

+1cc to Mr.R.Senniappan, Advocate SR.No.2675
+1cc to Spl Government Pleader SR.No.27357

Writ Petition Nos.6283 to 6286 of 2018

KS(CO)
GN(28/04/2018)