In the High Court of Judicature at Madras

Dated : 25.4.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.10471 & 10472 of 2018 &
WMP.Nos.12423 & 12424 of 2018

N.R.G.Agencies, rep.by
its Partner S.Srinivas ...Petitioner

Vs

The Assistant Commissioner (CT),
Thudiyalur Circle, Commercial
Taxes Complex, Balasundaram
Road, Coimbatore-18. ...Respondent

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorari to call for the records on the files of the respondent herein respectively in TIN No.33542024233/2009-10 and TIN No. 33542024233/2010-11, both dated 06.12.2017 and quash the same.

For Petitioner : Mr.N.Inbanathan
For Respondent : Mrs.G.Dhana Madhri, GA

COMMON ORDER

Mrs.G.Dhana Madhri, learned Government Advocate accepts notice for the respondent. Heard both. In the light of the glaring errors apparent on the face of the impugned orders, the writ petitions are taken up for final disposal even at the admission stage.

2. The petitioner is before this Court for the second time challenging the impugned assessment orders for the very same years namely 2009-10 and 2010-11.

3. Earlier, the writ petitions filed by the petitioner in W.P.Nos.21718 and 21719 of 2015 challenging the assessment orders for the very same years dated 18.5.2015 were allowed by a common order dated 21.7.2015, the impugned orders therein were set aside and the matters were remanded to the respondent for a fresh consideration. Pursuant to that, final notices dated 28.9.2016 were issued, for which, the petitioner submitted their objections dated 13.10.2016. In the said objections, apart from other things, the petitioner specifically stated that they are stockists only for M/s.Pepsico India Holdings Private Limited and that they have got no other purchases. The office of the respondent received the objections dated 13.10.2016. But, for one year, no action was initiated and the impugned assessment orders came to be passed on 06.12.2017, that too, without affording an opportunity of personal hearing, which is mandatory.

4. Furthermore, the petitioner had taken a stand that they have no dealings other than M/s.Pepsico India Holdings Private Limited. It is not known as to how the respondent stated that the petitioner had not reported their purchases from other dealers. Due to efflux of time and probably due to change of officer, the procedure has not been followed.

5. For the above reasons, the writ petitions are disposed of with a direction to the petitioner to treat the impugned orders as show cause notices and submit their further objections within a period of 15 days from the date of receipt of a copy of this order. On receipt of the further objections, the respondent shall afford an opportunity of personal hearing to the petitioner and redo the assessments in accordance with law. Till then, no coercive action shall be initiated against the petitioner for recovery of tax and penalty as quantified in the impugned assessment orders. No costs. Consequently, the connected WMPs are closed.

25.4.2018

Speaking (or) Non Speaking Order
Index : Yes (or) No
Internet : Yes (or) No

To
The Assistant Commissioner (CT), Thudiyalur Circle, Commercial Taxes Complex, Balasundaram Road, Coimbatore-18.

RS

<u>T.S.SIVAGNANAM,J</u>

RS

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