IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2018
CORAM:
THE HON'BLE Mr.Justice T.S.Sivagnanam

W.P.Nos.31363 to 31365 of 2017
and
W.M.P.Nos.34459 to 34464 of 2017

M/s Sri Muruga Hardwares,
represented by its Partner - K.Murugan
... Petitioner in all WPs

vs.

The Assistant Commissioner (ST)
Tiruvannamalai-I Circle,
Tiruvannamalai,
Tiruvannamalai District.
... Respondent in all three WPs

Prayer in all W.Ps

WRIT Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, to call for the records on the file of the respondent in his impugned proceedings made in TIN No.33104662972/2013-14, 2014-15 and 2016-17 dated 28.09.2017 and to quash the same as illegal and contrary to the scheme of the Act.

For Petitioner in all three WPs : Mr.S.Rajasekar

For Respondent in all three WPs : Mr.S. Kanmani Annamalai Additional Government Pleader

COMMON ORDER

Heard Mr.S.Rajasekar, the learned counsel appearing for the petitioner and Mr.S. Kanmani Annamalai, the learned Additional Government Pleader, accepting notice on behalf of the respondents. With consent on either side, these Writ Petitions are taken up for disposal.

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 (hereinafter, referred to as 'TNVAT Act'),

has filed these Writ Petitions, challenging the orders of assessment passed under the provisions of the TNVAT Act for the assessment years 2013-14, 2014-15 and 2016-17, respectively, dated 28.09.2017.

3. Though the respondent issued revision notices, the petitioner did not file their objections. Therefore, the respondent cannot be faulted for having confirmed the proposals in the revision/show cause notices. However, considering the fact that the assessment orders have been passed in September, 2017, and till date, no recovery could be made by the respondent and also owing to the fact that the alleged wilfull suppression of purchases and corresponding sales turnover is based on the information culled out from the Department Website and also based upon the Enforcement Wing Officers' report, this Court is inclined to give one opportunity to the petitioner to go before the Assessing Officer to substantiate their case.

4. Accordingly, these Writ Petitions are disposed of, by directing the petitioner to pay 15% of the disputed tax for each of the assessment years, and such payment shall be effected within a period of three weeks from the date of receipt of a copy of this order. If the petitioner complies with this condition, then, they will be entitled to treat the impugned assessment orders as show cause notices, and submit their objections within 15 days thereafter, enclosing all relevant records to fortify their claim. After the objections are received in full form, the respondent shall fix a date for personal hearing of the authorized representative of the petitioner, verify the records and redo the assessment in accordance with law. Till the above exercise is completed, no coercive action shall be initiated against the petitioner for recovery of the balance tax and penalty, as quantified in the impugned assessment orders. It is made clear that, if the petitioner does not comply with the condition imposed by this Court, then, the respondent shall proceed further, pursuant to the impugned assessment orders in accordance with law.

5. In the result, all these Writ Petitions are disposed of, as stated supra. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

sd

To

The Assistant Commissioner (ST)
Tiruvannamalai-I Circle,
Tiruvannamalai,
Tiruvannamalai District.

+3cc to Mr.R.Hemalatha, Advocate SR.No.336
+3cc to Government Pleader SR.No.181

W.P.Nos.31363 to 31365 of 2017

NM(CO)
GN(14/02/2018)