In the High Court of Judicature at Madras

Dated : 17.1.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.984 to 993 of 2018
& WMP.Nos.1177 to 1186 of 2018

M/s.R.K.Enterprises, rep.
by its Proprietor R.Murugan ...Petitioner in all W.Ps

Vs

The Commercial Tax Officer,
Broadway Assessment Circle,
No.199, Thambu Chetty Street,
Chennai-1. ...Respondent in all W.Ps

Prayer: PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorari to call for the records comprised in the impugned revisional orders passed by the respondent in TIN-33840041194/2007-08, TIN-33840041194/2014-15,TIN-33840041194/2015-16,TIN-33840041194/2016-17,TIN-33840041194/2010-11, TIN-33840041194/2009-10,TIN-33840041194/2011-12,TIN-33840041194/2008-09,TIN-33840041194/ 2013-14 and TIN-33840041194/2012-13, all dated 26.9.2017 and quash the same as unconstitutional and violation of the principles of natural justice.

For Petitioner : Mr.K.M.Malar Mannan
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, which is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006, is aggrieved by the assessment orders dated 26.9.2017 for the years 2007-08 to 2016-17.

3. On a perusal of the impugned assessment orders, it is seen that notices dated 10.5.2017 were issued and the revision

of assessment is based on the details culled out from the intranet website of the Department, which was pursuant to an inspection conducted in the place of business of the petitioner on 24.8.2016 by the officials of the Enforcement Wing. There is also a levy of penalty under Section 27 of the said Act.

4. Though the petitioner received the revision notices dated 10.5.2017, they failed to file any reply. Therefore, the assessment has been completed on account of the fact that the petitioner has not submitted their objections to the revision notices dated 10.5.2017. The Assessing Officer cannot be faulted for having completed the assessment.

5. Before this Court, for the first time, the petitioner would contend that details were not furnished and therefore, the petitioner could not explain to the Assessing Officer that there is no case for revision of assessment.

6. For details to be provided, the petitioner should have made a request to the Assessing Officer at least by way of filing objections, which they failed to do so.

7. It is further submitted that during the course of inspection, the petitioner was threatened and that a sum of Rs.2,25,232/- was recovered by the officials of the Enforcement Wing on 24.8.2016.

8. Thus, considering the above facts, this Court is inclined to grant one more opportunity to the petitioner to go before the Assessing Officer, however, subject to a condition.

9. The writ petitions are disposed of with a direction to the petitioner to pay 15% of the disputed tax for each of the assessment years. While computation of 15% of the disputed tax for each of the assessment years, the respondent shall give credit to the said sum of Rs.2,25,232/- (Rupees two lakhs twenty five thousand two hundred and thirty two only) already paid and indicate the balance amount, which shall be remitted by the petitioner within a period of 15 days from the date of such indication. On such remittance, the petitioner is entitled to submit their objections before the Assessing Officer and if any records or details are required, the same shall be sought for by the petitioner and they shall be provided by the Assessing Officer in accordance with the Rules and thereafter, an opportunity shall be granted to the petitioner to file their objections. After affording an opportunity of personal hearing,the respondent is directed to redo the assessment in

accordance with law. No costs. Consequently, the connected WMPs are closed.

s/d-
Assistant Registrar(CS VII)

True Copy

Sub-Assistant Registrar

RS

To
The Commercial Tax Officer,
Broadway Assessment Circle,
No.199, Thambu Chetty Street, Chennai-1.

+ 10 CC to Thiru.K.M.Malarmannan, Advocate
(SR.NO.4065,dt.19.1.2018)

+1 CC to The Special Government Pleader(Taxes),
High Court, Madras (SR.No.3911, dt.18.1.18)

WP.Nos.984 to 993 of 2018 and
WMP.Nos.1177 to 1186 of 2018

MR(CO)
MS:03/02/2018