In the High Court of Judicature at Madras

Dated : 05.4.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.7873 to 7878 of 2018

M/s.M.R.R.Traders, rep.by
its Proprietor M.R.Badrinath ...Petitioner

Vs

The Assistant Commissioner (ST),
Hosur (South) Circle, Hosur,
Krishnagiri District. ...Respondent

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Mandamus directing the respondent to consider and pass orders respectively for the assessment years from 2009-10 to 2014-15 under the Tamil Nadu Value Added Tax Act, 2006 as per the petitioner's reply letters dated 23.3.2018 without influence of the report of the Enforcement Wing Officials.

For Petitioner : Mr.S.Rajasekar

For Respondent : Mrs.G.Dhana Madhri, GA

COMMON ORDER

Mrs.G.Dhana Madhri, learned Government Advocate accepts notice for the respondent. Heard both. By consent, the writ petitions are taken up for joint disposal.

2. The learned Government Advocate has raised a preliminary objection regarding the maintainability of the writ petitions contending that the writ petitions are premature and are filed solely based on apprehension and that the Assessing Officer is well within his jurisdiction to take a decision and pass assessment orders, as the petitioner has already submitted their reply to the revision notices dated 31.10.2017.

3. Under normal circumstances, this Court would have accepted the preliminary objection raised by the learned Government Advocate and rejected the relief sought for. However, in the facts of the present case, this Court does not propose to

do so. This is because of the reason that in the notices dated 31.10.2017, the Assessing Officer stated that he has gone through the inspection records carefully and found that the defects noticed are correct and admissible. Such a conclusive finding ought not to have been rendered in a show cause notice and if it is to be construed strictly, the proceedings dated 31.10.2017 are not show cause notices, as the Assessing Officer pre-concluded and prejudged the issue.

4. Repeatedly, this Court has pointed out that the report of the Enforcement Wing Officials can, at best, be a starting point for the issuance of a revision notice by the Assessing Officers. After the dealer files their objections to the notices, the Assessing Officer has to independently take a decision in the matter and should not solely be guided by the report of the Enforcement Wing Officials. Therefore, on facts, this Court finds that the petitioner's apprehension is reasonable, as the notices dated 31.10.2017 reveals the mind of the Assessing Officer. In any event, the petitioner has given an elaborate reply for each of the revision notices vide reply dated 23.3.2018, which are now pending consideration before the respondent.

5. In the light of the above, the writ petitions are disposed of by directing the respondent to consider the objections dated 23.3.2018 to the revision notices dated 31.10.2017, afford an opportunity of personal hearing to the petitioner and take an independent decision on merits and in accordance with law without being, in any manner, influenced by the report of the Enforcement Wing Officials. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

The Assistant Commissioner (ST), Hosur (South) Circle, Hosur, Krishnagiri District.

+6cc to Mr.S.Rajasekar, Advocate, S.R.No.25227

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RRK(06/04/2018)