In the High Court of Judicature at Madras

Dated : 23.1.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.1328 & 1329 of 2018
& WMP.Nos.1711 to 1714 of 2018

M/s.N.R.K.Furniture, rep.by
its Proprietor K.Dinesh Kumar ...Petitioner in both Wps

Vs

The Deputy Commercial Tax Officer,
Vellore (South) Assessment Circle,
Vellore, Vellore District. ...Respondent in both Wps

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorari to call for the records on the file of the respondent in his impugned proceedings made respectively in TIN : 33344202575/2014-15 and TIN : 33344202575/2017-18, both dated 29.8.2017 and quash the same as illegal and contrary to the scheme of the Act.

For Petitioner : Mrs.R.Hemalatha

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 is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 and is engaged in the business of wooden and steel furniture at Vellore. The petitioner is aggrieved by the impugned assessment orders for the years 2014-15 and 2017-18 under the provisions of the said Act.

3. Admittedly, the petitioner did not file their objections to the revision notices dated 25.7.2017. Therefore, the respondent cannot be faulted in confirming the proposal in the

said notices. However, one factor, which has to be noted, is that the revision of assessment was based on the details, which were gathered by the respondent from the Departmental website. In such circumstances, this Court, in the case of JKM Graphics Solutions Private Limited Vs. CTO, Vepery Assessment Circle [reported in (2017) 99 VST 343], laid down certain guidelines as to how the Assessing Officers have to proceed with the assessment when the revision of assessment is based on mismatch of the details between the returns filed by the dealers and what are reflected in the Departmental website. This direction was necessitated on account of the fact that the Commercial Taxes Department has not issued any guidelines to the Assessing Officers as to how to deal with the assessments when the revision of assessment is made by gathering details from the Departmental website.

4. However, had the petitioner sought for those details such as invoice numbers, tax payer identification numbers, commodity codes and purchase value, the Assessing Officer would have furnished the same and the petitioner could have participated in the assessment proceedings. Hence, the present circumstance, to which, the petitioner has been pushed, is solely attributable to the petitioner themselves. But, considering the fact that appropriate rate of tax has to be collected and that the assessment orders should not be paper orders, this Court is inclined to grant one opportunity to the petitioner to go before the Assessing Officer.

5. Accordingly, 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 within three weeks from the date of receipt of a copy of this order. If the petitioner complies with the said condition, they will be entitled to treat the impugned orders as show cause notices and submit their objections within a period of seven days therefrom. On receipt of the objections, the respondent shall afford an opportunity of personal hearing to the petitioner and redo the assessments in accordance with law. It is needless to add that the benefit of this order will not enure to the petitioner, if the petitioner fails to comply with the condition of payment of 15% of the disputed tax for each of the assessment years within the time stipulated. No costs. Consequently, the connected above WMPs are closed.

Sd/-
Assistant Registrar(CS IX)

//True copy//

Sub Assistant Registrar

RS

To

The Deputy Commercial Tax Officer, Vellore (South) Assessment Circle,
Vellore, Vellore District.

+2cc to Mr.R.Hemalatha, Advocate SR.No.4983

WP.Nos.1328 & 1329 of 2018 &
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KJI(CO)
GN(08/02/2018)