In the High Court of Judicature at Madras

Dated : 05.6.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.13327 & 13328 of 2018 &
WMP.Nos.15691 and 15692 of 2018

Tvl.Sri Jayasakthi Edible Oil (P) Ltd.,
rep. by its Director P.Sriramulu ...Petitioner

Vs

The Assistant Commissioner (ST),
Suramangalam Assessment Circle,
Salem. ...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 respectively in TIN : 33152802630/2013-14 and TIN : 33152802630/2014-15, both dated 06.4.2018 and quash the same as being without jurisdiction, authority of law and contrary to the principles of natural justice.

For Petitioner : Mr.R.Senniappan
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 petitioner has challenged the orders of assessment passed under the provisions of the Tamil Nadu Value Added Tax Act, 2006 for the years 2013-14 and 2014-15.



3. On a perusal of the impugned orders, it is seen that the respondent, though stated that the objections given by the petitioner were carefully considered, had not dealt with the same, but completed the assessments stating that the petitioner admitted the omission before the Inspecting Officers. The manner, in which, the assessments were completed, is not legally tenable in the light of the decision of the Hon'ble Division Bench of this Court in the case of Madras Granites (P) Ltd. Vs.

CTO, Arisipalayam Circle, Salem [reported in (2006) 146 STC 642]. In the said decision, the Hon'ble Division Bench of this Court held that the Assessing Officer is a Quasi Judicial Authority and in exercising his quasi judicial functions of completing the assessment, he is not bound by the instructions or directions of the higher authorities.

4. Though it is alleged that the petitioner admitted the omission before the Inspecting Officers, the inspection report resulted in the issuance of revision notices dated 02.3.2018, for which, the petitioner gave their objections dated 05.4.2018. Therefore, the respondent is statutorily required to consider the objections of the petitioner on merits and then take a decision and ought not to have completed the assessment on the alleged ground that the petitioner admitted the omission before the Inspecting Officers. The above reasons are sufficient to hold that the impugned orders are unsustainable.

5. Accordingly, the writ petitions are allowed, the impugned orders are set aside and the matters are remanded to the respondent with a direction to consider the objections dated 05.4.2018 in an independent manner without in any manner influenced by the report of the Inspecting Officers, afford an opportunity of personal hearing and pass fresh orders of assessment in accordance with law. No costs. Consequently, the connected WMPs are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To
The Assistant Commissioner (ST),
Suramangalam Assessment Circle, Salem.



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