In the High Court of Judicature at Madras

Dated : 28.6.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.15814 & 15815 of 2018 &
WMP.Nos.18794 & 18795 of 2018

M/s.Sarovar Art Industries, rep. by
its Partner Mr.Mahendar Kumar Jain ...Petitioner

Vs

The Assistant Commissioner (ST),
Ayyappanthangal Assessment
Circle, No.5/44, Thiruvalluvar Salai,
Ramapuram, Chennai-89. ...Respondent

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorari to call for the records of the respondent respectively in TIN/33821389699/2013-14 dated 30.5.2018 and TIN/ 33821389699/2014-15 dated 31.5.2018 and quash the same as being contrary to the provisions of the Tamil Nadu Value Added Tax Act, 2006 as held by the catena of cases of this Court and being arbitrary, excessive and unreasonable.

For Petitioner : Mr.V.Sundareswaran
For Respondent : Mrs.G.Dhana Madhri, GA

COMMON ORDER

Mrs.G.Dhana Madhri, learned Government Advocate accepts notice for the respondent. Heard both. In the light of the glaring errors, which are apparent on the face of the impugned orders, the writ petitions are taken up for joint disposal.

2. The respondent, in the impugned orders, referred to the objections given by the petitioner dated 29.4.2016 separately for the relevant assessment years. However, in the last paragraphs, the respondent stated that no objections were given by the petitioner.

3. It appears that the predecessor officer issued the notices dated 29.4.2016, for which, the petitioner submitted their reply dated 29.4.2016. Subsequently, the notices dated 05.5.2016 for personal hearing were issued, in pursuance of which, the petitioner appeared and had given the objections dated 26.5.2016. However, the respondent - the officer, who has now assumed charge as the Assessing Officer of the petitioner, stated in the impugned orders that no reply has been given by the petitioner. In fact, in the impugned orders themselves, the reply was referred to. Thus, there is a violation of the principles of natural justice. That apart, the respondent, while continuing with the assessment proceedings, should have issued separate notices for personal hearing and heard the dealer. Thus, the impugned orders call for interference.

4. For the above reasons, the writ petitions are allowed, the impugned orders are set aside and the matters are remanded to the respondent with a direction to fix a date for personal hearing, in which, the petitioner should be permitted to produce all documents and after hearing the petitioner's authorized representative fully and effectively, the assessments shall be redone in a manner known to law and by a reasoned order. No costs. Consequently, the connected WMPs are closed.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

To
The Assistant Commissioner (ST), Ayyappanthangal Assessment Circle, No.5/44, Thiruvalluvar Salai, Ramapuram, Chennai-89.

+ 1 cc to Mr. V. Sundareswaran, Advocate Sr.41554
+ 1 cc to Mr.Special Government Pleader SR.42031

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BS(CO)
EU(09/07/2018)