In the High Court of Judicature at Madras

Dated : 03.7.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.16110 to 16115 of 2018
& WMP.Nos.19147 to 19152 of 2018

M/s.Aalayam Industries, rep.by
its Partner Thiru S.V.Nallasivam ...Petitioner

Vs

The Assistant Commissioner (ST),
Tiruchengode Rural Assessment
Circle, Tiruchengode, Namakkal
District. ...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 in TIN : 33063203629/2009-10, TIN : 33063203629/2010-11, TIN:33063203629/2011-12, TIN : 33063203629/2012-13, TIN : 33063203629/2013-14 and TIN : 33063203629/2014-15, all dated 26.3.2018 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 : 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 aggrieved by the revision of assessment made by the respondent for the years 2009-10 to 2014-15.

3. The petitioner alone has to be blamed because they did not file their objections to the revision notices dated 28.7.2017 issued by the respondent. After receipt of the said revision notices, though the petitioner sought time, they did not file their objections. Therefore, the respondent cannot be found fault with in confirming the proposals in the said revision notices in the absence of any objections.

4. It is seen that the re-assessment was based on an inspection conducted between 25.2.2015 and 27.2.2015 in the business premises of the petitioner and it was alleged that there were trade discounts, purchase omissions and sale suppressions after verification of monthly returns of the

petitioner in Annexure I and that of the sellers in Annexure II.

5. The learned counsel for the petitioner submits that one opportunity may be granted to the petitioner to go before the Assessing Officer.

6. Considering the said submission, this Court is of the view that one opportunity can be granted to the petitioner, however, subject to a condition.

7. Accordingly, the writ petitions stand disposed of with a direction to the petitioner to pay 15% of the tax demanded in each of the impugned orders within a period of three weeks from the date of receipt of a copy of this order. If the said condition is complied with, the petitioner is entitled to treat the impugned orders as show cause notices and submit their objections within a period of two weeks 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 made clear that if the petitioner fails to comply with the condition imposed, the benefit of this order will not enure to the petitioner and the writ petitions will stand automatically dismissed giving liberty to the respondent to initiate recovery proceedings. On the other hand, if the petitioner complies with the said condition, the demand of the balance tax for the assessment years from 2009-10 to 2014-15 shall remain stayed till fresh orders are passed by the respondent. No costs. Consequently, the connected WMPs are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To
The Assistant Commissioner (ST), Tiruchengode Rural Assessment Circle, Tiruchengode, Namakkal District.

+1cc to Mr.R.Senniappan, Advocate SR.No.42823
+1cc to Special Government Pleader Sr.No.43102

NA(CO)
sm:13.7.2018

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