In the High Court of Judicature at Madras

Dated : 06.7.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.16302 to 16305 & 16941 to 16944 of 2018 & all connected pending WMPs

K.R.C.Housing & Infrastructure Co., rep.by its Manager
R.Arunachalam
No.7 Gandhi Nagar,
3rd Street, Tirupur. ...Petitioner

Vs

1.The Commercial Tax Officer (Enforcement), Group I, Tirupur-641603.

2.The Assistant Commissioner (ST)/(CT) North Circle, Tirupur-641603. ...Respondents

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorarified Mandamus to call for the records of the second respondent in his proceedings respectively in TIN-33682308366/ 2015-16, TIN-33682308366/2014-15, TIN-33682308366/2013-14, TIN-33682308366/2012-13, TIN-33682308366/2011-12, TIN-33682308366/ 2010-11, TIN-33682308366/2009-10 and TIN-33682308366/2008-09, all dated 14.5.2018, quash the same and direct the respondents to redo the assessments after giving an opportunity to the petitioner to put forth his case.

For Petitioner : Mr.K.R.Krishnan

For Respondents in WP. Nos.16302 to 16305 of 2018 : Mr.G.Dhana Madhri, GA

For Respondents in WP. Nos.16941 to 16944 of 2018 : Mr.M.Hariharan, AGP

COMMON ORDER

Heard both. By consent, the writ petitions are taken up for joint disposal.

2. The petitioner, which is a registered dealer on the file of the second respondent, challenged the impugned assessment orders under the provisions of the Tamil Nadu Value Added Tax Act, 2006 for the years from 2008-09 to 2015-16.

3. The only ground, on which, the impugned orders have been challenged, is that no opportunity of personal hearing was granted.

4. The second respondent would state that on the date when the objections were received, an opportunity of personal hearing was granted.

5. However, this is not explicitly recorded in the impugned orders. When there is a revision of assessment pursuant to an inspection conducted in the place of business of the petitioner, an opportunity of personal hearing is mandatory. The opportunity of personal hearing to be afforded is not an empty formality. But, it is with a specific reason to enable the assessee to respond about the transactions done by them. Therefore, the opportunity of personal hearing should be an effective opportunity, in which, the Assessing Officer should call upon the dealer to explain all the transactions, which are doubted by the Officer. Thus, the assessment should be completed by a dialogue and discussion and it is not a one way procedure. For the above reasons, this Court is of the view that an effective opportunity of personal hearing should be granted.

6. In the light of the above, the writ petitions are disposed of by directing the petitioner to submit a representation to the second respondent clearly stating as to what are the documents they propose to produce for perusal. This representation shall be given by treating the impugned assessment orders as show cause notices within a period of 15 days from the date of receipt of a copy of this order. On receipt of the representation with full details, the second respondent shall afford an opportunity of personal hearing to the petitioner and redo the assessments on merits and in accordance with law. No costs. Consequently, the connected WMPs are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To
1.The Commercial Tax Officer (Enforcement), Group I,
Tirupur-641603.

2.The Assistant Commissioner (ST), North Circle, Tirupur-641603

+1cc to Special Government Pleader(Taxes).sr.no.44173
+1cc to Mr.K.R.Krishnan, Advocate sr.no.43988

WP.Nos.16302 to 16305 &
16941 to 16944 of 2018 &
all connected pending WMPs

jp(co)
nr 23/07/2018