In the High Court of Judicature at Madras

Dated : 04.7.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.16468 to 16471 of 2018 &
WMP.Nos.19684 to 19687 of 2018

M/s.R.R.Thualsi Builders India (P) Ltd., rep.by its Executive Director R.R.Sathiyamurthi ...Petitioner in all Wps

Vs

The Assistant Commissioner (ST), (FAC), Erode (Rural), Erode. ...Respondent in all Wps

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 herein respectively in TIN/33762903708/2012-13, TIN/33762903708/2013-14, TIN/33762903708/2014-15 and TIN/33762903708/2015-16 and quash the orders respectively dated 28.5.2018, 22.5.2018, 22.5.2018 and 29.5.2018.

For Petitioner : Mr.B.Raveendran

For Respondent : Mr.M.Hariharan, AGP

COMMON ORDER

Mr.M.Hariharan, learned Additional Government Pleader 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 even at the stage of admission.

2. The petitioner is aggrieved by the assessment orders passed by the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 for the years from 2012-13 to 2015-16.

3. On receipt of the pre-assessment notices dated 30.8.2017, the petitioner submitted their reply dated 15.9.2017. In the said reply, apart from explaining that there is no case for revision of turnover, the petitioner stated that at the time of inspection by the officials of the Enforcement Wing, they had reported that they would produce copies of the bills, based on which, the input tax credit was availed. However, the Officials of the Enforcement Wing were stated to have informed the petitioner that they did not have time to look into those

documents and that the same would be dealt with by the Assessing Officer.

4. The learned counsel for the petitioner submits that purchase registers are available with the petitioner and if the respondent is proposing to revise the turnover on the purchase alleged to have been made from the registration canceled dealers on the basis of mismatch of the details culled out from the official website of the Department, the respondent is bound to afford an opportunity of personal hearing, examine the books and the records that the petitioner may produce and pass a speaking order.

5. However, in the instant case, the respondent did not afford an opportunity of personal hearing nor assigned any reasons as to why the objections filed by the dealer were overruled. Further, the impugned orders are bereft of particulars and liable to be set aside. The respondent should bear in mind the principles laid down in the case of Sri Vinayaga Agencies Vs. AC(CT), Vadapalani I Assessment Circle, Chennai [reported in (2013) 60 VST 283] and the decision in the case of JKM Graphics Solutions Private Limited Vs. CTO, Vepery Assessment Circle [reported in (2017) 99 VST 343]. For all the above reasons, this Court is of the considered view that the assessments have to be redone by passing a speaking order after affording an opportunity of personal hearing to the petitioner.

6. In the result, the writ petitions are allowed, the impugned orders are set aside and the matters are remanded to the respondent for a fresh consideration. The respondent shall afford an opportunity of personal hearing to the petitioner, peruse the document that the petitioner may produce and pass a reasoned order on merits and in accordance with law. No costs. Consequently, the connected WMPs are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To
The Assistant Commissioner (ST) (FAC), Erode (Rural), Erode.

+1cc to Mr.B.Raveendran, Advocate sr.no.43266
+1cc to Special Government Pleader(Taxes)sr.no.43666

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nr 18/07/2018