IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.07.2018

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No.17328 of 2018
and
W.M.P.No.20590 of 2018

M/s.Bharani Textiles (Firm),
rep.by its Partner,
Mr.R.Sathiyamorthy ... Petitioner

vs.

The State Tax Officer,
Palladam Assessment Circle,
Pollachi Main Road,
Palladam-641 664 ... Respondent

Writ petition filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus calling for the records relating to the order TIN 33816243148/2015-16, dated 18.04.2018, passed by the respondent and to quash the same and consequently direct the respondent to refund the amount or adjust the excess payment of tax retained by the respondent and to pass a fresh assessment order, after issuing a fresh notice calling for objections from the petitioner.

For Petitioner : Mr.S.Sivakumar
For Respondents :M/s.G.Dhanamadhri,G.A.

ORDER

Heard Mr.S.Sivakumar, learned counsel for the petitioner and Ms.G.Dhanamadhri, learned Government Advocate, who accepts notice on behalf of the respondent and with the consent of either parties, the writ petition itself is taken up for final disposal.

2.Though the learned Government Advocate for the respondent vehemently contended that as against the impugned order, the petitioner has an effective alternative remedy of filing an appeal before the Appellate Deputy Commissioner (ST), Pollachi, this Court is not inclined to accept the said contention on account of the glaring error, which is manifest on the face of the impugned order. The Respondent has stated that the objections filed by the dealer, dated 21.11.2017, is vague. In fact, the reason given by the respondent, in the impugned assessment order, is vague. The respondent has lost sight of the fact that he is the statutory authority and being an Assessing Officer, he has to independently apply his mind. Unfortunately, the respondent does not acquaint himself with the legal position in spite of several orders being passed by this Court. The Court has time and again stated that the Assessing Officer may not be bound over by the directions issued by the statutory authorities.

3.In the instant case, the respondent, without even examining whatever records produced by the petitioner or calling for records, has stated that the petitioner has failed to substantiate their contention during inspection. If this is the manner in which the assessments are to be completed, then there is no need for an Assessing Officer, because the Enforcing Officer himself can perform a dual function of conducting an inspection, preparing the report and assessing the dealer to tax. This procedure is unknown to the Tamil Nadu Value Added Tax Act, 2006. Under the said circumstances, the impugned order cannot be sustained in law.

4.In the result, the writ petition is allowed and the impugned order is quashed. It is open to the respondent to proceed afresh in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

msk
To

The State Tax Officer,
Palladam Assessment Circle,
Pollachi Main Road,
Palladam-641 664

+1 CC to Spl. Govt. Pleader sr 45851

W.P.No.17328 of 2018

SP(23/07/2018)