In the High Court of Judicature at Madras

Dated : 25.7.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.18828 to 18833 of 2018
& WMP.Nos.22191 to 22202 of 2018

Tvl.K.G.Homes, rep.by its
Proprietor G.Karthik ...Petitioner

Vs

1.The Commercial Tax Officer/BTPS,
Central Enforcement Wing-I,
Chennai-6.

2.The Assistant Commissioner (ST),
Pondy Bazaar Assessment Circle,
No.46, Pasumpon Muthuramalingam
Salai, Taluk Office Building,
III Floor, R.A.Puram, Chennai-28. ...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 in TIN/33581523400/2010-11, TIN/ 33581523400/2011-12, TIN/33581523400/2012-13, TIN/ 33581523400/ 2013-14, TIN/33581523400/2014-15 and TIN/ 33581523400/2015-16, all dated 25.4.2018, quash the same and direct the 2nd respondent to redo the assessments after giving an opportunity to petitioner to produce the documents.

For Petitioner : Mr.K.R.Krishnan

For Respondents : Mr.M.Hariharan,
Additional Government Pleader



COMMON ORDER

Mr.M.Hariharan, learned Additional Government Pleader accepts notice for the respondents. Heard both. In view of the glaring errors, which are apparent on the face of the impugned assessment orders, the writ petitions are taken up for joint disposal even at the admission stage.

2. The petitioner has challenged the assessment orders dated 25.4.2018 passed by the second respondent under the provisions

of the Tamil Nadu Value Added Tax Act, 2006 for the years from 2010-11 to 2015-16.

3. The petitioner gave their objections dated 09.10.2017 to the notices dated 27.7.2017 and further objections dated 29.11.2017 to the notices dated 08.11.2017. Though there is a reference to the said objections in the impugned assessment orders, it appears that the second respondent was solely guided by the statement recorded from the petitioner conducted by the officials of the Enforcement Wing during the course of inspection.

4. It is settled legal position that the Assessing Officer, while completing the assessments, is not bound over by any directions issued his/ her superior officer, much less, the report of the officials of the Enforcement Wing. The assessments should have been completed based on the objections filed by the petitioner. Furthermore, the assessments having been revised under Section 27 of the said Act, it is necessary that an opportunity of personal hearing should have been granted. This Court is fully convinced that there is a violation of the principles of natural justice. However, instead of setting aside the impugned assessment orders, the petitioner can be directed to approach the second respondent so that adequate opportunity would be granted to the petitioner to put forth their objections.

5. Accordingly, the writ petitions are disposed of by directing the petitioner to treat the impugned proceedings as show cause notices and file their further objections within a period of 15 days from the date of receipt of a copy of this order. On receipt of the further objections, the second respondent shall afford an opportunity of personal hearing to the petitioner and redo the assessments on merits and in accordance with law. Till then, no coercive action shall be taken against the petitioner. No costs. Consequently, the connected WMPs are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To
1.The Commercial Tax Officer/BTPS, Central Enforcement Wing-I, Chennai-6.

2.The Assistant Commissioner (ST), Pondy Bazaar Assessment Circle, No.46,
Pasumpon Muthuramalingam Salai,
Taluk Office Building,
III Floor,
R.A.Puram, Chennai-28.

+1cc to Mr.K.R.Krishnan, Advocate sr.no.50057

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nr 03/08/2018