In the High Court of Judicature at Madras

Dated : 25.7.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.18948 & 18949 of 2018
& WMP.Nos.22347 to 22350 of 2018

M/s.Raj Guru & Co., rep.by
its Proprietor S.Saravana
Bavahari ...Petitioner

Vs

The Assistant Commissioner (ST),
Pollachi Rural Assessment Circle,
Pollachi, Coimbatore District. ...Respondent

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 in his proceedings in TIN : 33222285436/2013-14 and TIN : 33222285436/ 2014-15, both dated 04.7.2018 and quash the same illegal.

For Petitioner : Mr.S.Ramanathan
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 has challenged the orders dated 04.7.2018 passed by the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 for the years 2013-14 and 2014-15.

3. Admittedly, the petitioner did not file their objections to the revision notices dated 05.3.2018. Therefore, the petitioner cannot complain that there has been a violation of the principles of natural justice. However, it has to be seen that the revision notices were issued based on verification of the official website of the Tamil Nadu Commercial Taxes Department. It is alleged that the petitioner had not filed any returns under the said Act as well as the Central Sales Tax Act, 1956. In paragraph 3 of the impugned orders, the respondent states that on verification of the letters filed by the petitioner for clearance certificates for the relevant

assessment years, it was found that the petitioner had undertaken some contract works during the relevant assessment years. In fact, what have been referred to therein are not letters, but are only annual returns manually filed by the petitioner, which were taken into consideration and certificates of sales tax verification were issued by the Authorities concerned on 07.11.2014 and 27.5.2016 respectively for the relevant assessment years.

4. Thus, when the assessment is sought to be revised based upon the information furnished by the petitioner in their annual returns, an opportunity of personal hearing ought to have been granted, especially when the respondent invoked Section 22(4) of the State Enactment. Hence, this Court is of the considered view that the impugned assessments shall be redone.

5. Accordingly, the writ petitions are disposed of by directing the petitioner to treat the impugned proceedings as show cause notices and submit their objections along with necessary enclosures within a period of three weeks from the date of receipt of a copy of this order. On receipt of the objections, the respondent shall afford an opportunity personal hearing and redo the assessment in accordance with law. Till then, no coercive action shall be initiated against the petitioner. No costs. Consequently, the connected WMPs are closed.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

RS

To
The Assistant Commissioner (ST),
Pollachi Rural Assessment Circle,
Pollachi,Coimbatore District.

+1cc to Mr.S.RAMANATHAN, Advocate, S.R.No.49675

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KAN(CO)
TR(11/08/2018)