In the High Court of Judicature at Madras

Dated : 30.7.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.19222 & 19223 of 2018
& WMP.Nos.22617 to 22620 of 2018

Tvl.R.T.Traders, rep.by its Proprietor ...Petitioner

Vs

The Commercial Tax Officer (Main),
Gudiyatham (West)-632602.
Vellore 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 orders dated 28.12.2016 respectively in TIN - 33406272619/2014-15 and TIN - 33406272619/2015-16 and quash the same.

For Petitioner : Mr.Manoharan Sundaram
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 is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006. The petitioner is aggrieved by the revision of assessment made by the respondent for the years 2014-15 and 2015-16.

3. The petitioner alone has to be blamed because they did not file their objections to the revision notices dated 06.10.2016 issued by the respondent. Therefore, the respondent cannot be found fault with in confirming the proposals in the said revision notices in the absence of any objections.

4. It is seen that the re-assessment was on the ground that on cross verification of the details through the departmental website, it came to light that certain purchases, on which, the

dealer claimed purchase input tax credit, had not been reflected in Annexure II of the sellers. Further, interest was levied under Section 27(3) of the said Act.

5. The learned counsel for the petitioner submits that one opportunity may be granted to the petitioner to go before the Assessing Officer.

6. Considering the said submission, this Court is of the view that one opportunity can be granted to the petitioner, however, subject to a condition.

7. Accordingly, the writ petitions stand disposed of with a direction to the petitioner to pay 15% of the tax demanded in each of the impugned orders within a period of three weeks from the date of receipt of a copy of this order. If the said condition is complied with, the petitioner is entitled to treat the impugned orders as show cause notices and submit their objections within a period of two weeks therefrom. On receipt of the objections, the respondent shall afford an opportunity of personal hearing to the petitioner and redo the assessments in accordance with law. It is made clear that if the petitioner fails to comply with the condition imposed, the benefit of this order will not enure to the petitioner and the writ petitions will stand automatically dismissed giving liberty to the respondent to initiate recovery proceedings. On the other hand, if the petitioner complies with the said condition, the demand of the balance tax and interest for the assessment years 2014-15 and 2015-16 shall remain stayed till fresh orders are passed by the respondent. No costs. Consequently, the connected WMPs are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To
The Commercial Tax Officer (Main), Gudiyatham (West)-632602.
Vellore District.

+1cc to Mr.Manoharan Sundaram, Advocate, S.R.No.51288
+1cc to the Special Government Pleader, S.R.No.52046

WP.Nos.19222 & 19223 of 2018 &
WMP.Nos.22617 to 22620 of 2018

SMI/07.08.2018