In the High Court of Judicature at Madras

Dated : 02.8.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.19672 to 19675 of 2018
& WMP.Nos.23101 to 23108 of 2018

M/s.Kumaran Jewellery, rep.by
its Proprietor K.S.Selvaraju ...Petitioner in all Wps

Vs

The State Tax Officer (FAC),
Vandavasi-604408. Tiruvannamalai
District. ...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 on the file of the respondent in his impugned proceedings respectively made in TIN 33944601303/2013-14, TIN 33944601303/2014-15, TIN 33944601303/ 2015-16 and TIN 33944601303/2016-17, all dated 30.6.2018 and quash the same as illegal and contrary to the scheme of the Act.

For Petitioner : Mrs.R.Hemalatha
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, which is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006, has filed these writ petitions challenging the assessment orders passed under the said Act for the years from 2013-14 to 2016-17.

3. The respondent completed the assessments and passed the impugned orders on the ground that the petitioner did not file their objections.

4. The learned counsel for the petitioner submits that they had filed their objections on 18.5.2018 by sending the same by registered post with acknowledgment and the postal acknowledgment cards show that the office of the respondent received the said objections on 25.5.2018.

5. It is not known as to why the dealer had sent the objections by registered post instead of appearing before the

Assessing Officer and more so, when the petitioner sought for several information from the respondent in the reply dated 18.5.2018.

6. Be that as it may, since the only issue, which arises for consideration, is as to whether there is a manufacturing loss or an invisible loss, the matter requires to be enquired into by considering the nature of production activity done by the petitioner. This issue was considered by this Court in the case of Interfit Techno Products Ltd. Vs. Principal Secretary/Commissioner of Commercial Taxes [reported in (2015) 81 VST 389] wherein this Court held that a uniform percentage cannot be adopted as invisible loss. For the above reasons, this Court is inclined to remand the matter to the respondent for fresh consideration.

7. Accordingly, the writ petitions are disposed of by directing the petitioner to treat the impugned proceedings as show cause notices and submit their comprehensive reply. If the petitioner requires any details from the respondent, the same shall also be sought for in the reply by clearly specifying as to what are all the details required by them. On receipt of the reply, the respondent shall consider the request made by the petitioner, furnish relevant details, afford sufficient opportunity to the petitioner to submit further objections, if necessary and after affording an opportunity of personal hearing, redo the assessments in accordance with law. No costs. Consequently, the connected WMPs are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

The State Tax Officer(FAC), Vandavasi-604408. Tiruvannamalai District.

+4cc to Mrs.R.Hemalatha, Advocate sr.no.53018
+1cc to Special Government Pleader(Taxes) sr.no.52985

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nr 20/08/2018