In the High Court of Judicature at Madras

Dated : 02.8.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.19909 of 2018 & WMP.No.23344 of 2018

Tvl.Olympic Cutting Dies,
rep. By its Proprietor ...Petitioner

Vs

The Assistant Commissioner (ST),
Ambur Assessment Circle, Vellore
District. 635802. ...Respondent

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records of the order of the respondent dated 26.7.2018 in TIN 33334264806/2017-18 and quash the same.

For Petitioner : Mr.Adithya Reddy
For Respondent : Mrs.G.Dhana Madhri, GA

ORDER

Mrs.G.Dhana Madhri, learned Government Advocate accepts notice for the respondent. Heard both. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner was served with the notice dated 12.4.2018 proposing to revise the assessment for the year 2017-18 under the provisions of the Tamil Nadu Value Added Tax Act, 2006 pursuant to the VAT Audit conducted by the officials of the Enforcement Wing from 19.6.2017 to 22.6.2017, 28.6.2017, 29.6.2017 and 06.7.2017. The petitioner submitted a reply dated 20.4.2018, most of which were questioning the jurisdiction of the Inspection Team stating that it was not authorized by the Commissionerate. However, in the last paragraph of the reply, the petitioner stated that they are in possession of the documents to prove their purchases and that they will produce the same, if necessary.

3. However, the respondent completed the assessment while accepting that the petitioner produced the following documents :

> "a. Purchase bills for the period 01.4.2017 to 30.6.2017;
> b. Sales bills for the period 01.4.2017 to 30.6.2017;
> c. Monthly return copies from 01.4.2017 to 30.6.2017; and
> d. Proof of payment made to vendors for the purchases."

4. The respondent further stated that the petitioner did not file any proof for movement of goods nor produced original sale bills nor the purchase bills were verified, that not even a single bill bears the buyer's signature and that it was a fabricated document. Finally, the respondent stated that only after the notice was issued by the respondent, the dealer was ready to produce the documents, as, at the time of inspection, they did not produce any documents. Therefore, the proposal in the show cause notice was confirmed and the impugned assessment order has been passed.

5. The respondent, having accepted that certain documents were produced by the petitioner, could have examined those documents as to their correctness and veracity. The respondent cannot state that the petitioner did not produce those documents at the time of inspection and therefore, he will not look into those documents. Even if the petitioner refused to produce the documents before the Inspecting Authorities, after receipt of the revision notice, when he submits the objections along with documents, on production of such documents, the respondent, being the Assessing Officer of the petitioner, is well within his jurisdiction to consider those documents and then complete the assessment. Any failure to do so would amount to prejudging the matter and abdicating the statutory responsibility of the Assessing Officer. The Assessing Officer is an independent person and cannot be bound over by the directions issued by the superior authorities. In this regard, useful reference can be made to the decision in the case of Floor Fixers Vs. CTO [W.P.Nos.20364 to 20366 of 2016 dated 02.8.2016]. In the light of the above, this Court is inclined to grant one more opportunity to the petitioner to go before the Assessing Officer.

6. Accordingly, the writ petition is disposed of directing the petitioner to treat the impugned proceedings as a show cause notice and submit fresh objections along with documents 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 of personal hearing to the petitioner and redo the assessment in accordance with law. No costs. Consequently, the connected WMP is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

The Assistant Commissioner (ST), Ambur Assessment Circle,
Vellore District. 635802.

+1cc to Mr.Adithya Reddy, Advocate, S.R.No.53524

+1cc to the Spl Government Pleader, S.R.No.52992

WP.No.19909 of 2018&
WMP.No.23344 of 2018

EV(CO)
GSP(28/08/2018)