BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 31.07.2018
CORAM:
THE HONOURABLE MR.JUSTICE M.GOVINDARAJ
Writ Petition(MD)No.17470 of 2015
and
M.P.(MD).No.1 of 2015

Tvl. Sandhya Spices,
represented by its Proprietor
M.Arumugam, No.16, Veerapathiran Street,
Bodinayakanur.
... Petitioner

Vs.

The Assistant Commissioner (CT) (FAC),
Bodinayakanur. ... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records on the file of the respondent in TIN No:33935082089/2014-15 dated 28.08.2015 and quash the same as illegal, invalid and against the principles of natural justice.

For Petitioner : Mr.A.Chandrasekaran
For Respondent : Mr.S.Dhayalan
Government Advocate

O R D E R

The petitioner is a dealer in Cardamom and an assessee under TNVAT Act, 2006. He filed the returns for the year 2014-2015. The returns deemed to have been assessed only on 31.10.2015, unless an independent order of assessment is passed before the said date. In the instant case, the respondent has not passed any assessment order to the returns submitted by the petitioner. Without waiting for the deemed date of assessment, the respondent issued a revision notice under Section 27 of the Act, on the basis of the inspection conducted by the Enforcement Wing Officials on 18.12.2014. Challenging the said order, the petitioner is before this Court.

2. I have given my anxious consideration to the notice and the materials produced before this Court.

3. On a perusal of the notice dated 30.05.2015, shows that the revision notice under Section 27 of TNVAT Act, 2006, was issued on the basis of the inspection conducted by the Enforcement Wing Officials. The respondent has not passed any independent assessment order under Section 22 of the Act. Even before passing

an assessment order, the question of revising the assessment order does not arise. The revision notice dated 30.05.2015 should be considered as premature one.

4. The contention of the learned counsel for the petitioner that he has submitted his objection to the revision notice issued by the respondent, but even without considering the objection and without affording an opportunity of personal hearing, the respondent passed the order on 28.08.2015, which is also before the deemed date of assessment on 31.10.2015 has some force. Therefore, without going to the further aspects, I am inclined to set aside the impugned order dated 28.08.2015, passed by the respondent and remit the matter back to the respondent for fresh consideration. The respondent shall consider the objection submitted by the petitioner and pass orders on merits, after affording an opportunity of personal hearing, without being influenced by the report of the Enforcement Wing Officials, within a period of eight weeks from the date of receipt of a copy of this order.

5. The Writ Petition is ordered accordingly. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar(CS-III)

To

The Assistant Commissioner (CT) (FAC),
Bodinayakanur.

+1cc to Mr.A.Chandrasekaran, Advocate Sr.No.76024
+1cc to The Spl. Government Pleader Sr.No.76391

AKV

VB/RP/SAR3/16.08.2018/2P/4C

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