BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 27.11.2018
CORAM
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
W.P.(MD)Nos.9016 to 9019 of 2015 and
M.P.(MD)Nos.1, 1, 1 & 1 of 2015

Guru Bhagavan Granites,
Rep. by its Partner,
Raja,
No.14, Krishnapuram Colony Main Road,
2nd Street, Madurai. ... Petitioner in all petitions

Vs.

The Assistant Commissioner(CT),
Chockikulam Assessment Circle,
Madurai. ... Respondent in all petitions

COMMON PRAYER : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records in TIN Nos.33025001449/2009-2010,33025001449/2010-2011, 33025001449/2011-2012 and 33025001449/2012-2013, dated 30.04.2015 on the file of the respondent and quash the same as arbitrary, illegal, unreasonable and direct the respondent to pass an order after considering the objection and documents filed by the petitioner in accordance with law.

(in all petitions)

For Petitioner : Dr.A.Thiyagarajan, Senior Counsel, for Mr.S.Karunakar.

For Respondent : Mr.Aayiram K.Selvakumar, Additional Government Pleader.

C O M M O N O R D E R

The petitioner in these three petitions are one and the same. The assessment years alone are different. The returns filed by the petitioner got concluded on a deemed assessment basis. But then, they were sought to be reopened on the strength of the report of the Enforcement Wing. The petitioner submitted his reply in response to the pre revision notice. However, the impugned orders adverse the petitioner came to be passed. They are assailed in these Writ petitions.

2. The learned Senior counsel appearing for the petitioner submitted that the impugned orders will have to be set aside on a short and simple ground. The assessment officer chose to disregard the material made available by the petitioner on the ground that they were not produced before the Enforcement

officials. The relevant portion of the impugned order reads as under:-

> " that they had accepted the mistake that the purchases were shown wrongly. They had accepted the defects pointed out at the time of inspection and paid the tax due without any objections. They had filed the copies of purchase bills and revised return. They had also filed the ledger account for the correct purchase turnover accounted for. No copy of the judgment referred by the dealer in support of their contention. They had not produced the above records either before the inspection officer or before the processing officer. Hence, the objections are not acceptable for actual sales suppression and estimation as it is an after thought."

3. I am of the view that the assessment officer will have to take an independent call in the matter. He must pass orders after perusing the materials placed before him. He may not be dictated by the Enforcement Wing. Likewise, he cannot refuse to look into the material produced by the assessee on the ground that they were not produced before the enforcement officials.

4. Since the impugned order suffers from misdirection in law, I am of the view that the orders impugned are set aside. The matter is remitted to the file of the respondent to pass orders afresh in accordance with law.

5. The Writ petitions stand allowed, accordingly. No costs. Consequently, connected Miscellaneous petitions are closed.

Sd/-
Assistant Registrar(Crl. Side)

/True Copy/

Sub Assistant Registrar(CS-II)

To
The Assistant Commissioner(CT),
Chockikulam Assessment Circle, Madurai.

+1 cc TO Mr.S.Karunakar, ADVOCATE IN SR NO.97221
+1cc to Special Government Pleader Sr.No.97344
Pmu
MK/ES/RSK/SAR 2/27.12.2018/2P/4C