(2014) 11 MAD CK 0222

In the Madras High Court

Case No : Writ Petition Nos. 5139 and 5140 of 2014 and M.P. Nos. 1 and 2 of 2014

Rahul Raj Trading Company APPELLANT

Vs

The Assistant Commissioner (CT) (FAC) RESPONDENT

Date of Decision : 18-11-2014

Acts Referred:

Citation : (2014) 11 MAD CK 0222

Hon'ble Judges : T.S. Sivagnanam, J

Bench : Single Bench

Judgement

T. S. Sivagnanam, J.—The petitioner, a registered dealer under the provisions of the Tamil Nadu Value Added Tax has challenged the assessment orders for the year 2010 - 2011 and 2011 2012.

2. The allegation against the petitioner was that on a surprise inspection and cross check of the dealer M/s.VNR Infrastructures Limited, was found that the petitioner has effected circular transaction with VNR Infrastructures Limited, Sri Balaji Enterprises, Paradise Technochem India P. Ltd. and VNR Logistics Pvt. Ltd. The petitioner was given opportunity to submit their objection to the notice which was issued in pursuance to the surprise inspection. The petitioner submitted his explanation stating that the said VNR Infrastructures Limited is said to have purchased goods from the petitioner and an invoice number was given. However, the department entertained doubt regarding the transaction stating that it was a circular transaction and the same set of documents have been circulated without any transfer of goods. To state that it was not a circular transaction, the department called for the details of lorry receipts, name of the transport company, weighment slip, details of freight charges paid and details of unloading charges. Despite opportunity, the petitioner did not produce these documents.

3. In my view, the observation made in the impugned order of assessment stating that perusal of the statement by VNR Infrastructures Limited clearly shows that they were stated to have purchased the goods from the petitioner

does not mean that the respondent has accepted the case of the petitioner that purchase have been from them, by M/s.VNR Infrastructures Limited. In fact, the allegation in the show cause notice has to be read along with explanation furnished by the petitioner and the observation contained in the impugned order of assessment. The petitioner cannot pick and choose a few issues in the impugned order of assessment stating that the action of the respondent in reversing input tax from them as well as levy of tax is illegal. Therefore, on the contentions raised by the petitioner, the impugned order of assessment cannot be quashed. However, the petitioner pleads that one more opportunity may be granted to the petitioner to produce the documents sought for by the department.

4. In the light of the above, while rejecting the prayer for quashing the impugned order of assessment, liberty is given to the petitioner to produce the documents called for by the respondent to prove the actual movement of goods. If such documents are produced, the respondent shall afford opportunity of personal hearing to the petitioner and consider and pass appropriate orders on merits and in accordance with law.

5. With the above observation, both the writ petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

