IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 13.05.2015

CORAM

THE HON'BLE MR JUSTICE R.SUBBIAH

AND

THE HON'BLE MR JUSTICE K. RAVICHANDRABAABU

W.A.Nos.750 and 751 of 2015

and

M.P.Nos.1 and 1 of 2015

M/s. Swaraj Enterprises,
Rep. by Managing Partner A.Dhruti Devi .. Appellant in both W.As.

Versus

The Assistant Commissioner (CT),
Chepauk Assessment Circle,
Greams Road, Chennai - 600 006. .. Respondent in both W.As.

Prayer in both W.As.: These Writ Appeals are filed under Clause 15 of Letters Patent against the common order dated 01.04.2015 passed in W.P.Nos.9612 and 9613 of 2015 praying to call for records of the impugned order of reassssment in 3350062860/13-14, 3350062860/14-15 dated 09.01.2015 from the files of the Respondent and quash the same.

For Appellant in both W.As. : Ms.Aparna Nandakumar

For Respondent in both W.As. : Mr.S.Kanmani Annamalai Additional Government Pleader (Tax)

C O M M O N J U D G M E N T

(Order of the Court was made by K. RAVICHANDRABAABU, J.,)

Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Tax), takes notice for the respondent.

2. By consent of the learned counsel appearing on either side, the writ appeals are taken up for final disposal.

3. These writ appeals are directed against the common order of the learned Single Judge passed in W.P.Nos.9612 and 9613 of 2015 dated 01.04.2015 in allowing the writ petitions by setting aside the impugned order of assessment in its entirety, however, by imposing a condition to pay 10% of the disputed tax.

4. Learned counsel appearing for the appellant submitted that the appellant as writ petitioner has filed those writ petitions challenging the order of assessment by raising very many grounds. She further submitted that the writ Court allowed the writ petitions and set aside the order of assessment in its entirety, however, by directing the appellant/writ petitioner to pay 10% of the disputed tax before the respondent on or before 15.05.2015. The said direction, according to the learned counsel appearing for the appellant, is unwarranted, in view of the fact that this Court has allowed the writ petitions and set aside the order of assessment and therefore, it is for the assessing authority to re-assess the entire issue afresh, by considering the claim of the appellant/writ petitioner. She also invited our attention to the judgment passed in W.A.Nos.211 to 218 of 2015 dated 06.03.2015, wherein under similar circumstances, the Division Bench of this Court, set aside the direction issued to the writ petitioner therein to deposit 5% of the tax amount by the writ Court, while setting aside the order of assessment and remitting back the matter for fresh assessment.

5. Learned counsel for the respondent fairly conceded to the above said decision and submitted that the issue involved in these writ appeals, is squarely covered by the earlier judgment passed by the Division Bench of this Court in W.A.Nos.211 to 218 of 2015 dated 06.03.2015.

6. Perusal of the said judgment would show that the Division Bench considered similar circumstance of a case, where the writ Court directed the writ petitioner therein to deposit 5% of the tax amount, while setting aside the order of assessment and remitting the matter back for fresh assessment. After setting aside the said portion of the order directing the deposit of 5% of the tax, the Division Bench directed the respondent therein to consider the claim of the petitioner therein, independently and after giving an opportunity of hearing, to pass orders afresh on merits and in accordance with law.

7. Following the above said judgment, we allow the writ appeals and set aside the order of the learned Single Judge in so far as directing the appellant/writ petitioner to pay 10% of the disputed tax. Consequently, the respondent is directed to consider the assessment proceedings afresh and pass appropriate orders, after giving an opportunity of hearing to the appellant/writ petitioner, on merits and in accordance with law, as expeditiously as possible, however, within a period of four weeks from the date of receipt of the objections filed by the appellant/writ petitioner.

8. These writ appeals are allowed, as indicated above. No costs. Consequently, the connected Miscellaneous Petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

va/ars

To

The Assistant Commissioner (CT),
Chepauk Assessment Circle,
Greams Road, Chennai - 600 006.

+2 cc to Mrs.Aparna Nandakumar Avocate sr.25085

W.A.Nos.750 and 751 of 2015

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