IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.06.2015

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.Nos.14454 and 14455 of 2015
and
M.P.Nos.1 of 2015

M/s.Sri Chitra Spinners ... Petitioner
Rep.by its Partner
A.Chinnasamy
No.3/495,Kombakadupudur Ichiaptti Post
Somanur, Coimbatore.641 668.

Vs

The Assistant Commissioner (C)(FAC)
Central-II Circle Tiruppur. ... Respondent

Writ Petitions filed under Article 226 of the Constitution of India seeking a writ of certiorari calling for the records of the respondent in TIN No.33342464820/2008-09 and 33342464820/2009-10 respectively dated 06.03.2015 and to quash the same.

For petitioners : Mr.S.Raveekumar

For respondent : Mr.Manoharan Sundaram,
Additional Government Pleader(Taxes)

C O M M O N O R D E R

The above two writ petitions have been filed by M/s.Sri Chitra Spinners, represented by its partner A.Chinnasamy, challenging the two assessment orders of the respondent dated 06.03.2015, in respect of the assessment years 2008-09 and 2009-10 respectively.

3.1 Mr.Raveekumar, learned counsel appearing for the petitioner in both the matters would submit that the respondent has passed the impugned proceedings in violation of the principles of natural justice. That apart, according to him, apart from the notices dated 28.02.2014 and 08.12.2014, for which suitable replies were given by the petitioner, the petitioner has not received the notices dated

20.01.2015, as mentioned in the impugned orders, however, the impugned orders have been passed as if the notices dated 20.01.2015 were served on the petitioner calling for accounts, as a result, the petitioner was kept in darkness, thereupon, they suffered great prejudice.

3.2 The learned counsel for the petitioner would further submit that if the respondent had served the notices dated 20.01.2015 and subsequently complied the request of the petitioner by providing (a) Copies of 4 invoices (b) Mode of its payment (c) 'C' Form No. and date issued by them and (d) arrange for cross-examination with the supplier to prove their allegation was false, the petitioner would have satisfied the respondent and consequently, there would have been no need to pass the impugned orders, hence the impugned orders are liable to fall.

4. Mr.Manohran Sundaram, learned Additional Government Pleader (Taxes) appearing for the respondent was unable to support the impugned orders since he has not produced any document to show that the request of the petitioner to provide the aforesaid documents has been complied with.

5. When the learned Additional Government Pleader (Taxes) was unable to satisfy this Court that the notices dated 20.01.2015 were served upon the petitioner calling upon them to submit its explanation, this Court is constrained to accept the contention of the learned counsel for the petitioner that there has been violation of principles of natural justice, since the petitioner was not provided with a reasonable opportunity to explain their case before passing the final orders.

6. The learned Additional Government Pleader (Taxes) for the respondent also submitted that so far as cross examination of the suppliers to prove that the averment made in the impugned orders is concerned, there is a remote possibility.

7. In view of the above, while accepting the submission of the learned Additional Government Pleader (Taxes) that it is not possible to provide cross examination of the suppliers to prove that the averment made in the impugned orders, this Court, while setting aside the impugned orders dated 06.03.2015 and remanding the matters back to the Assessing Officer for fresh consideration, direct the respondent to furnish

(a) Copies of 4 invoices
(b) Mode of its payment and

(c) 'C' Form No. and date issued by the petitioner along with copies of notices dated 20.01.2015 to the petitioner and after furnishing the same, this Court further direct the respondent to pass orders on merits and in accordance with law, of course, after affording a reasonable opportunity to the petitioner. It is made clear that since the learned Additional Government Pleader (Taxes) has stated that it is not possible to bring the suppliers for cross examination by the petitioner, reliance need not be placed on any of the statements or depositions made by the suppliers by the respondent while passing fresh orders.

8.The writ petitions are allowed to the extent indicated above. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

The Assistant Commissioner (C)(FAC)
Central-II Circle
Tiruppur.

+2cc's to Mr.S.Raveekumar, Advocate, S.R.No.26098
+1cc to the Special Government Pleader(Taxes), S.R.No.26201

W.P.Nos.14454 and 14455 of 2015

KV(CO)
CA(29/07/2015)