IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :04.02.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos.3260 and 3261 of 2009
and M.P.Nos.2 of 2009

M/S.KAYBEE STATIONERS [PETITIONER IN BOTH WPS)
REP BY ITS PROPRIETOR
B.SURENDER BAFNA
714-716 RAJA ST
C-162 VASAVI TOWERS
COIMBATORE.

Vs

THE ASSISTANT COMMISSIONER
(CT)(FAC) R.G. STREET CIRCLE
COIMBATORE. [RESPONDENT IN BOTH WPS)

Prayer:- Writ Petitions filed under Article 226 of the Constitution of India for the issuance of a writ of certiorari calling for the impugned proceedings of the respondent in TIN No.33031762374/08-09 and 07-08 respectively dt 3.2.2009 quash the same as illegal and contrary to the provisions of the Act in so far as the assessment year 2008--09 and 2007-2008 respectively are concerned.

For Petitioner : Mr.S.Rajasekar

For Respondent : Mr.Kanmani Annamalai, AGP (T)

O R D E R

The petitioner has come forward with these writ petitions challenging the orders of the respondent dated 03.02.2009 in so far as the assessment years 2008-2009 and 2007-2008 respectively.

2. The case of the petitioner is that, the petitioner has approached this Court earlier seeking a direction to keep in abeyance all further proceedings in respect of the notice dated 1.7.2008 by filing W.P.No.19204 of 2008 and this Court by order dated 12.12.2008 dismissed the said writ petition on the ground that the proceedings cannot be kept in abeyance on the ground that clarification is sought for from the 1st respondent. The said dismissal order will not automatically entitle the respondent to make a demand straightaway without issuing notice.

3. Heard the learned counsel for the petitioner as well as the learned Additional Government Pleader (Taxes) for the respondent and perused the materials available on record.

4. When the writ petition No.19204 of 2008 has been dismissed by this Court by order dated 12.12.2008, the Commercial Tax Officer will have to assess and determine the amount and thereafter make a demand. In this case, he has straightaway demanded the amount payable by the petitioner, which is not legally permissible.

5. Hence, while setting aside the impugned orders dated 03.02.2009, the matters are remitted back to the authority concerned to determine the amount payable by the petitioner, after issuing a fresh notice, calling for objections and affording an opportunity of personal hearing . He can complete such exercise, after complying with the principles of natural justice, within a period of four months from the date of receipt of a copy of this order.

The writ petitions are disposed of accordingly. No costs. Connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

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To

THE ASSISTANT COMMISSIONER
(CT)(FAC) R.G. STREET CIRCLE
COIMBATORE.

1 cc to Spl.Government pleader (T), sr. 6139
2 ccs to m/s. R. Hemalatha, Advocate, Sr. 6032

W.P.Nos.3260 and 3261 of 2009

SAI (CO)
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