IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2015

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.3932 of 2015
&
M.P.Nos.1 & 2 of 2015

P.H.A. India Private Ltd.,
No.25C, Sipcot Industrial Estate
Irungattukottai,
Sriperumbudur,
Kancheepuram District.

Formerly known as
P.H.C. Manufacturing Pvt. Ltd.,

represented by its
Authorised Signatory
M.Georgina Mary
Daughter of Maria Doss .. Petitioner

Vs

1. The Assistant Commissioner
 (Commercial Taxes)
 Adyar-I, Assessment Circle,
 No.46, Greenways Road,
 Chennai-600 028.

2. The Commissioner of Commercial Taxes,
 Ezhilagam,
 Chepauk,
 Chennai-600 005. .. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the issue of the order in Proceedings bearing No.TNGST/0861411/2003-04 dated 27.06.2014 duly issued by the Assistant Commissioner (Commercial Taxes), Adyar-I, Assessment Circle, No.46, Greenways Road, Chennai-600 028, the first respondent herien to the petitioner company and quash the same and direct the respondents to conduct the assessment afresh for the assessment year 2003-04 in accordance with law.

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For Petitioner : Mr.D.Ashok Kumar

For Respondent : Mr.A.R.Jayapratap
Addl. Govt. Pleader (Tax)

ORDER

The petitioner has come forward with this writ petition challenging the order of the 1st respondent dated 27.06.2014.

2. The case of the petitioner is that there was an assessment order for the Year 2003-04 dated 30.09.2005 and on appeal, the Appellate Authority remitted the matter for fresh consideration on 19.11.2007. Again the first respondent passed an order on 23.05.2008 reiterating the original assessment and yet another order of the Appellate Authority on 25.06.2009 remanding the matter. The petitioner contended that even after two reminders, the impugned order dated 27.06.2014 has been passed completely given a go bye the order of the Appellate Authority.

3. Learned counsel for the petitioner drew the attention of this Court to the decision reported in RAGAM POLYMERS V. COMMERCIAL TAX OFFICER, ICE HOUSE ASSESSMENT CIRCLE, CHENNAI-28 reported in [2008] 12 VST 43 (Mad), wherein, this Court held that directions of the Appellate Authority binding on the Assessing Officer and the order passed on remand without regard to the directions of the Appellate Authority, is not sustainable.

4. Learned Additional Government Pleader has not refuted the facts however, since already there is an order of remand and that there is no need for the petitioner to deposit any money, he should prefer an appeal before the Appellate Authority and get an opportunity for consideration on merits and pass orders without remanding again to the original authority.

5. Heard both sides.

6. Though there is an order by the Appellate Authority, it cannot be given a go-by by the original authority while passing an order. He is bound to consider the same and refer it in the order and then render findings on merits. Hence, I find no other option except to set aside the order and remit the matter before the original authority for a fresh consideration on merits and in accordance with law, after affording an opportunity for personal hearing of the petitioner on 08.04.2015 and dispose of the same, as expeditiously as possible, preferably within two weeks, thereafter.

7. With the above direction, the writ petition is disposed of. Consequently, connected miscellaneous petitions are closed. No costs.

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s/d-
Assistant Registrar(CS-III)
Dt:23/3/2015

True Copy

Sub-Assistant Registrar

To

1. The Assistant Commissioner
(Commercial Taxes)
Adyar-I, Assessment Circle,
No.46, Greenways Road,
Chennai-600 028.

2. The Commissioner of Commercial Taxes,
Ezhilagam,
Chepauk,
Chennai-600 005.

+ 1 cc to Mr.D.Ashok Kumar, Advocate SR 8488

+ 1 cc to the Special Govt.Pleader (Taxes) SR 8743

sk(co)
prk25/3

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