IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.01.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.Nos.269 & 270 of 2016
and
WMP.Nos.158 & 159 of 2016

M/s.Quintessential Designs
India Pvt Ltd.
Rep. by Syed Layak Ali,
Chief Executive Officer,
Gee Gee Emerald, 10th floor,
312 Village Road, Nungambakkam,
Chennai – 34,
Presently registered office shifted to
5th Floor, Status Quo,
38, Sterling Road, Nungambakkam,
Chennai-34. .. Petitioner in both WPs.

Vs

The Assistant Commissioner (CT)
Valluvarkottam Assessment Circle,
Chennai-6. .. Respondent in both WPs.

Prayer : Writ petitions filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for the records on the files of the respondent in CST.1004692/2011-12 & CST.1004692/2012-13 respectively dated 12.11.15 received on 19.11.15 and quash the same as being violative of principles of natural justice and hence invalid and illegal.

For Petitioner in both WPs. : Mr.V. Srikanth

For Respondent in both WPs. : Mr. S.Manoharan Sundaram Additional Govt. Pleader

COMMON ORDER

The Petitioner has come forward with these Writ Petitions challenging the assessment orders in question passed by the respondent on 12.11.2015 for the assessment years 2011-2012 and 2012-2013.

2. Heard Mr. V.Srikanth, learned counsel for petitioner and Mr.S.Manoharan Sundaram, learned Addl. Govt. Pleader appearing for the respondent.

3. The petitioner who is a manufacturer and dealer in ready made garments, is an assessee under the files of the respondent. For the assessment years, 2011-2012 and 2012-2013, the petitioner has filed its monthly returns before the respondent under CST Act 1956. The respondent passed an order of assessment for the years 2011-12, 2012-2013 fixing the taxable turnover at Rs.4,64,25,407/- and 3,44,48,467/- respectively. It was further held in the assessment order that for the assessment year 2011-2012 the petitioner had not provided details pertaining to export sales of Rs.15,90,905/- and documents for sales return of Rs.33,860/- and levied tax at 5% on the said turnover and redetermined the total and taxable turnover as Rs.4,57,12,136/- and Rs.4,64,25,407-00 respectively.

4. It is the case of the petitioner that the respondent has erred in calculating the Taxable Turnover and the petitioner cannot be held liable for payment of taxes based on the sales which never happened. Further, the respondent had not issued any show cause notice to the petitioner prior to passing of the impugned orders. Hence the impugned orders passed are violative of principles of natural justice invalid and illegal.

5. The specific ground raised against the impugned assessment orders challenged herein is that no show cause notices were issued before passing such orders.

6. Admittedly, there is no reference with regard to issuance of notices and the assessing authority straight away proceeded to pass the order of assessments violating the principles of natural justice.

7. The Learned Additional Government Pleader who was directed to get instructions, fairly submitted that no notice was issued before passing the impugned order. The said submission is recorded.

8. In view of the submissions of the learned Additional Government Pleader, the impugned orders are set aside and the matters are remanded back to the Assessing Authority for issuing pre assessment notices for the assessment years 2011-2012 and 2012-2013, within a period of two weeks from the date of receipt

of a copy of this order and on receipt of such notice, the petitioner shall file his objections within a period of two weeks thereafter. After receiving objections, the respondent is directed to pass necessary orders on merits and in accordance with law after affording due opportunity of personal hearing to the petitioner within a period of four weeks thereafter.

9. With the above direction, these Writ Petitions are disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

The Assistant Commissioner (CT)
Valluvarkottam Assessment Circle,
Chennai-6.

+1cc to Mr.C.Venkatraman, Advocate, S.R.No.2600
+1cc to the Government Pleader, S.R.No.2714

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and
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cnr(CO)
srg(22/02/2016)