In the High Court of Judicature at Madras

Dated: 22.12.2016

Coram

The Honourable Mr.JUSTICE RAJIV SHAKDHER

Writ Petition Nos.44062 to 44066 of 2016

& WMP Nos.37864 to 37868 of 2016

Tvl.Sree Chakra Enterprises,
represented by Mr.A.P.Chelvam

.... Petitioner in the above W.Ps

Vs.

1. The Commercial Tax Officer,
Arumbakkam Assessment Circle,
Chennai - 600 010.

2. The Deputy Commissioner (CT),
Enforcement (Central),
Greams Road, Chennai - 600 006.

.... Respondents in the above W.Ps

PETITION under Article 226 of The Constitution of India praying for the issuance of Writ of Certiorari calling for the records on the file of the first respondent in Rc.365/2016/A4 dated 14.10.2016 and quash the same as being without jurisdiction and authority of law contrary to the principles of natural justice in so far as the assesment years 2010-11 to 2014-15 are concerned.

For Petitioner : Mr.R.Senniappan
For Respondents : Mr.S.Kanmani Annamalai, AGP

C O M M O N O R D E R

1. Issue Notice. Mr.S.Kanmani Annamalai, accepts notice for the respondents.

2. With the consent of counsel for parties, the Writ Petitions are taken up for hearing and final disposal.

3. The petitioner is aggrieved by five (5) orders of even date, i.e, 14.10.2016, passed by the Revenue. The sole challenge to the orders is that it has been passed with undue haste and without due regard to the principles of natural justice.

3.1. To be noted, the reassessment notices pertain to the Assessment Years (AYs): AY 2010-11, AY 2011-12, AY 2012-13, AY 2013-14 and AY 2014-15.

4. It appears that, two (2) notices were sent to the petitioner, the first notice was returned with an endorsement "unclaimed" and the second notice was returned with an endorsement "left". It appears that finally affixation was ordered, which was carried out on 13.10.2016. The impugned order, however, was passed on the very next date, i.e., 14.10.2016.

5. It is, therefore, the contention of the learned counsel for the petitioner, that in the very least, a minimum of 15 days should be given by respondent No.1 to file objections. This contention of the learned counsel is based on what is stated in the impugned order, wherein, respondent No.1 records that when the second notice was issued, the petitioner was given 15 days to file its objections. As indicated above, the second notice was returned with the endorsement "left".

6. I have put to Mr.Kanmani Annamalai, as to whether, in the given circumstances, since, the impugned order was passed immediately after affixation was carried out, whether respondent No.1 would give another opportunity to the petitioner. Mr.Kanmani Annamalai says that, if, a direction is issued to the petitioner to appear before respondent No.1, another opportunity could be given to the petitioner.

7. Accordingly, the impugned order is set aside. The petitioner and/or his authorised representative will appear before respondent No.1 on 03.01.2017 at 11.00 a.m.

7.1. In case, the date given above, is not convenient to respondent No.1, a fresh date would be given, which would be proximate in point of time to the date fixed by the Court.

8.1. Needless to say, that before passing a fresh order, respondent No.1 will give personal hearing to the petitioner and/or his authorised representative. The respondent No.1 will, thereafter, pass a fresh order with due expedition, though, not later than six (6) weeks from the date of the conclusion of the hearing.

9. It is made clear, that the fact that this Court has set aside the impugned order will not impact the merits of the case.

10. The Writ Petitions are, accordingly, disposed of leaving the parties to bear the costs. Consequently, connection Miscellaneous Petitions stand closed.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

To
1. The Commercial Tax Officer,
 Arumbakkam Assessment Circle,
 Chennai - 600 010.

2. The Deputy Commissioner (CT),
 Enforcement (Central),
 Greams Road, Chennai - 600 006.

+1CC Mr.R.Senniappan, Advocate, SR 74990
+1CC Special Government Pleader (T) SR 75012

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