IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.04.2017

CORAM

THE HON'BLE Mr. JUSTICE K.RAVICHANDRABAABU

W.P.Nos.9142 and 9143 of 2017
and
W.M.P.Nos.10067 to 10069 of 2017

M/s.BBC City Paark,
Represented by its Partner Vummidi Ananth,
No.20, Mylai Ranganathan Street,
T.Nagar, Chennai 600 017 ... Petitioner in both the W.Ps.

Vs.

1. The Assistant Commissioner (CT),
   T.Nagar Assessment Circle,
   No.46, Greenways Road,
   Chennai 600 028

2. The Deputy Commissioner (CT)
   Enforcement (Central) Division,
   PAP JM Building,
   Greams Road,
   Chennai 600 006. ... Respondents in both the W.Ps

WP.No.9142/2017 is filed under Article 226 of the Constitution of India, to issue a writ of certiorari calling for the records relating to the proceedings of the 1st respondent in Rc/909/2015/A4(2008-2009) (Unregistered Period) dated 08.02.2017 and the consequential proceedings in Rc/909/2015/A4/2008-2009 & 2009-10 date 20.02.2017 and 24.03.2017 and quash the same.

WP.No.9143/2017 is filed under Article 226 of the Constitution of India, to issue a writ of certiorari calling for the records relating to the proceedings of the 1st respondent in Rc/909/2015/A4(2009-2010) (Unregistered Period) dated 08.02.2017 and quash the same.

For Petitioner : Mr.M.Hariharan

For Respondents : Mr.S.Kanmani Annamalai
Additional Government Pleader (T)
(For R1 and R2)

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COMMON ORDER

Mr.S.Kanmani Annamalai, learned Additional Government Pleader, takes notice for the respondents and by consent, the main writ petitions are taken up for final disposal, since the issue involved in these cases lies in a narrow campus.

2. Heard both sides.

3. The Petitioner is aggrieved against the orders of assessment dated 08.02.2017. The main grievance of the petitioner is that the assessing authority has not given sufficient opportunity to the petitioner to file their objection, before passing the orders of assessment. Therefore, it is contended that the impugned orders violate the principles of natural justice.

4. On the other hand, the learned Additional Government Pleader submitted that though sufficient opportunity was given to the petitioner, they have not chosen to file their objections and therefore, the Assessing Authority is left with no other option except to pass the orders of assessment. Thus, it is contended by the learned Additional Government Pleader that there is no violation of the principles of natural justice.

5. The orders of assessment impugned in these writ petitions pertain to the assessment years 2008-09 and 2009-10. It is not in dispute that earlier, the orders of assessment dated 17.01.2014 passed in respect of those assessment years were challenged before this Court in WP.Nos.5318 and 5319/2014 and this Court by order dated 09.10.2014, allowed the said writ petitions and remitted the matter back to the Assessing Authority for passing fresh orders of assessment, after permitting the petitioner to make inspection of the documents and take notes of the contents of the same and thereafter to file their objections. This Court, in the said order has also directed the Assessing Authority to afford an opportunity of personal hearing to the petitioner and then to pass fresh orders on merits and in accordance with law.

6. A perusal of the materials placed before this Court would show that in pursuant to the said order passed by this Court, though the petitioner was given sufficient opportunity to inspect the documents which are admittedly voluminous in nature, the petitioner has not filed their objections after such perusal. On the other hand, they sought time for making such objections, since the documents inspected are voluminous in nature and they need to consult their auditors. Such request made by the petitioner on 08.12.2016 and 28.12.2016 are admittedly, received by the Assessing Officer, as evident from the assessment orders itself. Admittedly, the Assessing Officer

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has not responded to the said request, especially, when the last request made on 28.12.2016 sought for 20 days time for submitting their objections. On the other hand, without informing the petitioner as to whether their request was considered or rejected, the Assessing Officer passed the orders of assessment on 08.02.2017. Therefore, the fact remains that the request made by the petitioner for extension of time, though received by the Assessing Officer, has not been responded in writing either this way or that way. However, the assessment orders have been passed without there being any objections raised by the petitioner.

7. Considering the above said facts and circumstances, this Court is of the view that the petitioner must be given one more opportunity for making their objections. At the same time, it is to be noted that the petitioner has approached this Court earlier and got an indulgence for inspection of the documents and for passing a fresh order of assessment. Therefore, the petitioner should have utilised the opportunity at earliest point of time, especially, when such order was passed by this Court as early as on 09.10.2014. Therefore, this Court is of the view that for remitting the matter back to the Assessing Officer, the petitioner should be put on some terms. Accordingly, the writ petitions are allowed and the impugned orders of assessment are set aside and consequently, the matter is remitted back to the 1st respondent for passing fresh orders of assessment. The petitioner is directed to deposit 25% of the tax demand, without prejudice to their contentions, before the Assessing Officer. Such deposit shall be made within a period of two weeks from the date of receipt of a copy of this order along with their objections. Before finalising the assessment, the Assessing Officer shall also give personal hearing to the petitioner. The entire exercise shall be done by the Assessing Officer within a period of four weeks from the date of receipt of the objections and the payment of 25% of the tax as stated supra. No costs. Consequently, the connected miscellaneous petitions are closed.

सत्यमेव जयते

Sd/-
Asst.Registrar

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/true copy/

Sub Asst. Registrar

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vsi

To

1.The Assistant Commissioner (CT),
T.Nagar Assessment Circle,
No.46, Greenways Road, Chennai 600 028

2.The Deputy Commissioner (CT)
Enforcement (Central) Division,
PAP JM Building,
Greams Road,
Chennai 600 006.

+1cc to the Special government Pleader (Taxes) Sr. 23035
+2cc to M/S. S. Ravee Kumar, Advocate Sr. 22757

W.P.Nos.9142 and 9143 of 2017

SS(CO)
VR(24/4/2017)

HIGH COURT OF JUDICATURE MADRAS
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