IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 24.03.2017
CORAM:

THE HONOURABLE MR. JUSTICE K. RAVICHANDRABAABU

W.P.Nos. 7314 to 7321 OF 2017
and
WMP Nos. 7979 to 7986 of 2017

M/s. S.L. Electricals
Rep. By its Proprietor
S.Loganathan
74, Alex Nagar MMC Post,
Chennai - 600 051. .. Petitioner
(in WP Nos.7314 to 7321 of 2017)

Vs.

The Assistant Commissioner (CT)
Madhavaram Assessment Circle
170, G.N.T.Road, Puzhal Camp,
Chennai - 600 066.
.. Respondent
(in WP Nos.7314 to 7321 of 2017)

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India praying for issuance of a Writ of CERTIORARI, to call for the records of the respondent in TIN:33331084661/2007-08 to 2014-2015 and quash the order dt.30.12.2016.

For Petitioner : Mrs.Hema Muralikrishnan

For Respondent : Mr.S.Kanmani Annamalai
Additional Government Pleader (Tax)

C O M M O N O R D E R

Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Tax), takes notice for the respondent in all these writ petitions. By consent of the parties, the Writ Petitions are taken up for final disposal at the admission stage itself, since the issue involved in these cases are covered by earlier order passed by this court in favour of the petitioner in W.P.No.5717 of 2016 dated 08.03.2017.

2. Heard Both Sides.

3. The petitioner is a registered dealer in electrical goods and domestic electrical appliances and they are aggrieved

against the order of assessment passed in respect of assessment years 2007-2008 to 2014-2015. The main grievance of the petitioner is that the assessment orders were passed without giving sufficient opportunity for the petitioner to submit their supportive materials/documents. Though such time was sought for by the petitioner when they appeared on 28.12.2016 before the Assessing Officer, the Assessing Officer did not afford any opportunity. Therefore it is contended that the Assessing Officer has violated the principles of natural justice.

4. The learned counsel appearing for the petitioner invited attention of this Court to the assessment orders and pointed out that the Assessing Officer had admitted the fact that the petitioner appeared on 28.12.2016 and requested for further extension of time for submitting the documents. He also submitted that once a request is made for extension of time, the Assessing Officer has to consider such request and indicate in writing, as to when is the next date of hearing. Even assuming that the Assessing Officer has not considered the request, still he has to intimate the petitioner as to the next hearing date in writing. In this case, admittedly the same has not been done. Therefore the learned counsel for the petitioner, by relying this Court's Order passed in W.P.No.5717 of 2016 dated 08.03.2017, prayed for setting aside the order of assessment and remitting the matter back to the Assessing Officer for considering the matter afresh, after giving due opportunity of personal hearing to the petitioner.

5. Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Tax) appearing for the respondent is not disputing the fact that the petitioner has sought for further time on 28.12.2016 and however the Assessing Officer has passed the order of assessment on 30.12.2016 itself, without giving any further time.

6. It is admitted by both sides, that the issue involved in this case, with regard to the request of extension of time, has already been considered by this Court in W.P.No.5717 of 2016 dated 08.03.2017, wherein in paragraph 7 & 8, it has been observed as follows:

> "7. It is seen that in pursuant to a notice issued under Section 22(4) of the said Act dated 14.10.2016, the petitioner appeared before the respondent on the date so fixed and had given a request for granting 20 days time for producing certain supporting documents. Such request made by the petitioner on 07.11.2016 is admitted by the respondent in the assessment order itself. However, it is stated therein that the petitioner has not produced the supporting document within 20 days.
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> 8. Needless to say that when a request is made by the

petitioner seeking for extension of time by way of writing, such request has to be considered and decided either by accepting or rejecting the same and such decision has to be duly communicated to the assessee by fixing a next date of hearing so as to enable such assessee to be prepared for appearance on that day for completion of the assessment proceedings. In the above referred decision relied on by the learned counsel for the petitioner cited supra, the very issue was considered and found that the request for extension either granted or rejected should be intimated then and there. In this case, admittedly, no such intimation was given to the petitioner, even assuming that the request of the petitioner was accepted by the Assessing Authority. Needless to say that unless the petitioner is informed of the decision on their request for extension, they cannot be expected to proceed further either this way or that way. Therefore, I find that the assessment order passed without intimating the decision taken on the request for extension of time, is in violation of the principles of natural justice and therefore on that ground alone, the assessment order has to be set aside, without going into any of the merits of the assessment. Accordingly, the writ petition is allowed. The impugned order of assessment is set aside and the matter is remitted back to the respondent for passing fresh order of assessment after giving due opportunity of hearing to the petitioner. The petitioner should co-operate with the assessment proceedings without dragging the matter by way of filing applications one after another seeking for extension without there being any justifiable cause. The respondent shall intimate the next date of hearing to the petitioner. On receipt of such notice, the petitioner should appear with all necessary documents and allow the Assessing Officer to complete the assessment proceedings. Entire exercise shall be done by the respondent within a period of four weeks from the date of receipt of a copy of this order. No costs. The connected miscellaneous petitions are closed."

7. Considering the fact, that the present cases are also similar to the one of the above said case, this Court is of the view that the petitioner also is entitled to similar relief. Accordingly, these writ petitions are allowed and the impugned orders of assessment are set aside. Consequently the matter is remitted back to the respondent for passing fresh orders of assessment, after giving due opportunity of hearing to the petitioner. The petitioner should co-operate with the

assessment proceedings without dragging the matter by way of filing applications one after another seeking for extension without there being any justifiable cause. The respondent shall intimate the next date of hearing to the petitioner. On receipt of such notice, the petitioner should appear with all necessary documents and allow the Assessing Officer to complete the assessment proceedings. Entire exercise shall be done by the respondent within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar(CSVII)

True Copy

Sub-Assistant Registrar

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To

The Assistant Commissioner (CT)
Madhavaram Assessment Circle
170, G.N.T.Road, Puzhal Camp,
Chennai - 600 066.

+1 cc to Mr.L.Muralikrishnan Advocate sr 18857
+1 cc to Special Government Pleader Taxes sr 18736

W.P. Nos. 7314 to 7321 of 2017

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