IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.04.2017

CORAM

THE HONOURABLE Mr. JUSTICE K. RAVICHANDRABAABU

W.P.No. 8447 of 2017
and W.M.P.No.9245 of 2017

M/s. Gulab Computers,
Rep. by tis Proprietor,
No.75/104, SMS Nagar,
Usuppur,
Chidambaram ...Petitioner

Versus

The Commercial Tax Officer,
Chidambaram-II, Assessment Circle,
Chidambaram. ...Respondent

Prayer:
Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Certiorarified Mandamus to call for the records of the respondent and to quash the assessment proceedings in TIN No.33504461186/2012-13 dated 29.11.2016 as illegal and direct the respondent to pass fresh orders for the mismatch cases relating to WEB SITE base don the guidelines and directions given by the Madras High Court in the batch cases in W.P.No.105/2016 and other relating to M/s.JKM Graphics Solutions Pvt.Limited and others Vs. Commercial Tax Officer, Vepery Assessment Circle and others dated 01.03.2017 after providing an opportunity of personal hearing to the petitioner.

For Petitioner: Mr.C.Baktha Siromoni

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

O R D E R

Mr.S.Kanmani Annamalai, learned Additional Government Pleader takes notice for the respondent. By consent of the parties, the main writ petition itself is taken up for final disposal.

2. The petitioner is aggrieved against the order of assessment dated 29.11.2016.

3. It is seen that in respect of the very same assessment year 2012-2013, the petitioner approached this Court earlier and filed W.P.No.21307/2016 and challenged the order of assessment dated 06.05.2016. This Court, by an order dated 22.06.2016, allowed the writ petition and set aside the order of assessment, by remitting the matter back to the Assessing Officer for fresh consideration, by specifically directing the petitioner to file their objections within a period of two weeks from the date of receipt of a copy of the order, after which, the Assessing Officer was also directed to afford an opportunity of personal hearing to the petitioner and to redo the assessment in accordance with law. Though such an order was passed by this Court, admittedly, the petitioner has not made the objections within the time limit fixed by this Court. However, it is stated by the learned counsel for the petitioner that the objection was not filed within the time since the petitioner was out of station. Certainly that cannot be a reason for this Court to entertain the present writ petition. However, the learned counsel for the petitioner further pointed out that in the communication dated 08.08.2016, sent by the respondent, the exact date of personal hearing was not indicated, even though the petitioner was called upon to attend such personal hearing. Therefore, he submitted that the petitioner was not in a position to appear and satisfy the respondent by placing all the materials, which according to the learned counsel, are in favour of the petitioner.

4. Considering the fact that the respondent has not given the exact date of personal hearing, this Court is of the view that the petitioner can approach the respondent and file the application under Section 84 of the Tamil Nadu Value Added Tax Act raising all the objections. If any such petition is filed, it is for the respondent to consider the same on its own merits and in accordance with law. Accordingly, the writ petition is disposed of with liberty to the petitioner to file an application under Section 84 of the Tamil Nadu Value Added Tax Act by raising all the points including the supportive case laws, if any. Such application shall be filed within a period of two weeks from the date of receipt of a copy of this order. If any such application is received, the respondent shall dispose of the same on merits and in accordance with law, after giving

personal hearing to the petitioner, within a period of two weeks thereafter. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

vsi

To

The Commercial Tax Officer,
Chidambaram-II, Assessment Circle,
Chidambaram.

+1cc to Special Government Pleader(Taxes) sr.21574

W.P.No. 8447 of 2017

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ss(17/4/2017)