IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.5504 of 2017
and
W.M.P.No.5855 of 2017

M/s.Malladi Drugs & Pharmaceuticals Limited
Represented by its General Manager - Accounts
Mr.V.Krishnakumar ...Petitioner

Vs.

Assistant Commissioner - CT,
Nandambakkam Assessment Circle,
No.17, Second Street,
Loganathan Nagar, Choolaimedu,
Chennai-600 094. ... Respondent

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records of the respondent and quash the assessment order in VAT/33500902741/2014-15 dated 04.01.2017 passed by the respondent as illegal and arbitrary and direct the respondent to pass fresh orders by providing an opportunity of personnel hearing to the petitioner and consider removal of erroneous tax claims.

For Petitioner: Mr.Joseph Prabakar
For M/s.G.Vijayakumar

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

O R D E R

The petitioner is aggrieved against the order of assessment dated 04.01.2017 issued in respect of the assessment year 2014-2015.

2. Heard Mr.Joseph Prabakar, learned counsel appearing for the petitioner and Mr.S.Kanmanai Annamalai, learned Additional Government Pleader (Tax) appearing for the respondent and

perused the materials placed before this Court.

3. Though the petitioner has raised very many grounds on merits of the assessment order, this Court is inclined to interfere with the order of assessment only on the ground that the assessment has been made by way of a non-speaking order without considering any of the objections filed by the petitioner and giving independent findings and conclusion on those objections.

4. It is seen, that in pursuant to the notice of proposal issued by the respondent on 22.11.2016, the petitioner has filed their objections on 16.12.2016 containing 12 pages. A perusal of the said objections would show that the petitioner has dealt with each and every proposal referred to in the above said notice. Therefore, it is for the Assessing Officer to consider those objections and pass a speaking order. Unfortunately, in this case the Assessing Officer has not only rejected the objections by single line observation namely "all the defects charged in the notice are still existing" and also by making further observation as though the petitioner has accepted the charges. As rightly pointed out by the learned counsel appearing for the petitioner, it does not appear from the objections filed by the petitioner, as if they have accepted any of the charges. That being the factual position, I failed to understand as to how the Assessing Officer has made such observations, as though the petitioner has accepted the charges. It is also seen from the impugned proceedings that further time sought for by the petitioner, has not been granted.

5. Considering all these aspects and without going into the merits of the contentions raised by the petitioner as against the order of assessment, this Court is of the view that the matter has to go back to the Assessing Officer for passing a fresh or speaking order on merits and in accordance with law, after giving due personal hearing to the petitioner and by considering the objections raised by them. As this Court, has found that the impugned order of assessment being a non-speaking order and an out come of non-application of mind, the same cannot be sustained.

6. Accordingly, the writ petition is allowed and the impugned order of assessment is set aside and the matter is remitted back to the respondent to pass a speaking order of assessment on merits and in accordance with law, after considering the objections filed by the petitioner and also after giving personal hearing to them as well. 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 petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mk

To

Assistant Commissioner - CT,
Nandambakkam Assessment Circle,
No.17, Second Street,
Loganathan Nagar, Choolaimedu,
Chennai-600 094.

+1cc to Mr.Vijaya kumar, Advocate, S.R.No.19162
+1cc to the Government Pleader, S.R.No.19225

W.P.No.5504 of 2017

GMI(CO)
RS(10/04/2017)