IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.8630 of 2017
and
W.M.P.No.9433 of 2017

M/s.Reva Aqua,
Represented by its Sole Proprietor
Mr.K.S.Kaarthik,
No.284/1, Kamrajar Salai,
Athani, Bhavani - 638 502. ... Petitioner

Vs.

The Commercial Tax Officer,
Bhavani Assessment Circle,
No.1002, Pookadai Street,
Bhavani - 638 301. ... Respondent

Prayer: The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records relating to the order No. 33402943385/2012-13 dated 06.03.2015 passed by the respondent quash the same and consequently direct the respondent to pass a fresh assessment order after issuing a fresh notice calling for objections from the petitioner.

For Petitioner : Mr. S.Sivakumaran
For Respondent : Mr.K.Venkatesh
learned Government Advocate

O R D E R

The petitioner is aggrieved by the order of assessment dated 06.03.2015.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondent.

3. The main grievance of the petitioner is that neither the pre-assessment notice nor the assessment order passed later, was brought to the knowledge of the proprietor of the petitioner, as the above proceedings received by the sweeper of the petitioner, were not placed before the petitioner by such person

inadvertently. In support of such contentions, the petitioner filed an affidavit dated 06.03.2017 sworn in by the said employee. On the other hand, it is submitted by the learned Government Advocate that both the proceedings were communicated through Registered Post and therefore, the petitioner cannot deny the knowledge of such communication.

4. When the notice issued by the Assessing Officer sent by a Registered Post was received by one of the employee of the petitioner concern, the petitioner cannot plead ignorance of issuance of such notice due to the fault committed by their employee. The petitioner raised similar contention in respect of serving the assessment order as well.

5. Considering the fact that the order of assessment was passed as early as on 06.03.2015 and the petitioner has not filed any objections before the respondent Assessing Officer, in pursuant to the issuance of pre-assessment notice, I am of the view that the petitioner has to raise all his objections only before the Appellate Authority, by making all the factual contentions, since the Appellate Authority is also a fact finding authority. At this length of time, this Court is not inclined to entertain this writ petition.

6. Accordingly, this writ petition is disposed of, by granting liberty to the petitioner to file an appeal before the Appellate Authority within a period of two weeks from the date of receipt of a copy of this order by raising all the objections. If any such appeal is filed, the Appellate Authority, shall consider the same and pass orders on its own merits and in accordance with law. No costs. Consequently, connected miscellaneous petition is also closed.

-s/d-
Assistant Registrar(CSVII)

True Copy

Sub-Assistant Registrar

mk/maya

To

The Commercial Tax Officer,
Bhavani Assessment Circle,
No.1002, Pookadai Street,
Bhavani - 638 301.

+1 cc to Special Government Pleader High Court Madras
sr 23385

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sj(co)
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