IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.04.2017

CORAM

THE HONOURABLE Mr. JUSTICE K. RAVICHANDRABAABU

W.P.No. 8929 of 2017
and
W.M.P.No. 9846 and 9847 of 2017

Mr. Rohit Motors,
Rep. by its Proprietrix - A. Suganthi,
No. 10/1, School Street,
Kalavai,
Vellore District. ...Petitioner

Versus

The Deputy Commercial Tax Officer,
Arcot,
Vellore District. ...Respondent

Prayer:
Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Certiorari to call for the records on the file of the Respondent in its impugned proceedings made in TIN: 33204582795/2013-14 dated 31.10.2016 and quash the same.

For Petitioner : Mr. J. Prasannakumar

For Respondent : Mr. K. Venkatesh,
Government Advocate.

O R D E R

Mr.K.Venkatesh, learned Government Pleader, takes notice for the respondent and 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 31.10.2016.

3. Heard both sides.

4. The contention of the petitioner is that the order of assessment cannot be sustained, since the same was passed, based on the materials collected from the Web Report.

5.Though the learned counsel for the petitioner sought to rely on the decision of this Court made in W.P.No.105 of 2016 dated 01.03.2017, in support of the said submission, I do not propose to entertain the writ petition for the simple reason that the petitioner has not replied to the notice of proposal, even though the same was duly served on them on 09.07.2016. Needless to say that once a notice is issued, it is the duty of the assessee to make their objections immediately. Having failed to make such objection, the petitioner cannot now rush to this Court and file the present writ petition, simply by placing reliance on the above decision. Unless the counter pleadings are available before the Assessing Authority, the question of finding the correctness or otherwise of the order passed by the Assessing Authority, does not arise. Therefore, the petitioner has to make all his objections by way of an Appeal before the Appellate Authority and challenge the order of assessment since such authority is a fact finding authority as well. Accordingly, this writ petition is disposed of with 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. If any such appeal is filed, the same shall be considered on its own merits and in accordance with law. The petitioner is at liberty to raise all the points including the case laws in support of their contentions. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

To

The Deputy Commercial Tax Officer,
Arcot,
Vellore District.

+1 cc to Spl.Govt.Pleader,sr.22675

+1 cc to Mrs.R.Hemalatha,advocate,sr.22532.

pvs(co)
krd 26/4

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