IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2017

CORAM

THE HON'BLE Mr. JUSTICE K.RAVICHANDRABAABU

W.P.Nos.11078, 11373 to 11376 of 2017
and
WMP No.12021, 12324 to 12327 of 2017

Akshayaa Yarn,
Rep. By its Proprietor
B.Senthil Raja,
Shop No.7, M.S.S.Complex,
Uthukuli Road,
Tirupur 641 601,
Tirupur District. ... Petitioner in all W.Ps.

Vs.

The Assistant Commissioner (CT) (FAC),
(Central-1) Circle,
Tirupur. ... Respondent in all W.Ps.

Common Prayer:Writ petitions is filed under Article 226 of the Constitution of India, to issue a Writ of certiorari to call for the records on the files of the respondent in TIN.33382402621/2012-13 to TIN.33382402621/2015-2016 dated 24.03.2017 and TIN.33382402621/2016-2017 dated 28.03.2017 respectively and quash the same as being without jurisdiction and authority of law and contrary to the principles of natural justice.

For Petitioner : Mr. R.Senniappan
in all W.Ps.

For Respondent : Mr.S.Kanmani Annamalai
in all W.Ps. Additional Government Pleader (T)

C O M M O N O R D E R

All these writ petitions are filed challenging the orders of assessment in respect of the Assessment Years 2012-2013 to 2016-2017.

2.Mr.S.Kanmani Annamalai, learned Additional Government Pleader takes notice for the respondent and by consent, these writ petitions are taken up for final disposal at the admission stage.

3.It is seen that the impugned orders of assessment were passed solely on the reason that the other end dealers from whom, the petitioner effected the purchase have not paid tax. It is further seen that the petitioner, while replying to the notice of proposal, apart from contending that the petitioner cannot be fastened with the liability of the selling dealer, has also sought for personal hearing. The Assessing Officer, without affording the personal hearing, passed the orders of assessment only by stating that the petitioner did not take any effort to prove that the selling dealer has paid the tax. When a personal hearing is sought for by the petitioner, the Assessing Officer, before coming to a conclusion that the petitioner did not prove the payment of tax by the selling dealer, ought to have given an opportunity to the petitioner to appear in person and satisfy as to how such conclusion is either factually wrong or legally not sustainable, as it is specifically contended by the petitioner that they cannot be fastened with such liability. Therefore, I am of the view that the matter has to go back to the Assessing Officer to redo the assessment once again, after giving an opportunity of hearing to the petitioner. Accordingly, the writ petitions are allowed and the impugned orders of assessment are set aside and the matter is remitted back to the Assessing Officer to redo the assessment once again after giving an opportunity of personal hearing to the petitioner. Such exercise shall be done by the Assessing Officer within a period of six weeks from the date of receipt of a copy of this order. No costs. The connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

vri

To

The Assistant Commissioner (CT) (FAC),
(Central-1) Circle,
Tirupur.

+2cc to the Special Government Pleader Sr.36604, 26356

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rk[co]
srg 05/05/2017