

In the High Court of Judicature at Madras

Dated: 15.03.2017

Coram

The Honourable Mr.JUSTICE K.RAVICHANDRABAABU

W.P.No.23 of 2017

and

W.M.P.Nos.20 and 21 of 2017

M/s.Maruthi Electricals,
Rep. By its Partner-K.Thirumurthy,
No.117, Mettur Road,
Erode 638 009,
Erode District. ... Petitioner

Vs.

Assistant Commissioner (CT) (FAC),
Mettur Road Assessment Circle,
Erode, Erode District. ...Respondent

Prayer:Writ petition filed under Article 226 of the Constitution of India 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 No.33493040772/2015-2016 dated 09.12.2016 quash the same.

For Petitioner : Mr.S.Rajasekar
For Respondents : Mr.K.Venkatesh
Government Advocate

O R D E R

The petitioner is aggrieved against the order of assessment dated 09.12.2016.

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

3.The main contention raised in this writ petition challenging the order of assessment is that the respondent has passed the same without considering, discussing and giving a finding on any of the objections raised by the petitioner, by independently applying his mind to such objections. In other words, it is the contention of the petitioner that the Assessing Officer has simply taken the inspection details furnished by the Enforcement Wing into consideration and came to the conclusion

by making one line order as though the objections filed by the petitioner are not acceptable.

4.I have perused the impugned order of assessment. No doubt, the respondent, before passing the order of assessment, apart from issuing notice, has also given an opportunity of hearing to the petitioner. But the question is whether the respondent has dealt with the objections raised by the petitioner and given any finding by independently applying his mind to those objections. The respondent though extracted the objections filed by the petitioner in detail in the impugned order, has however, concluded only by stating that the objections filed by the petitioner are not acceptable, since the details for stock variations furnished at the time of inspection and the written deposition taken from partner of the petitioner were considered by him. Needless to say that the Assessing Officer has to exercise his power and pass the order of assessment independently by considering the objections raised by the assessee and not by taking note of the inspection report and the statement made by the parties at the time of inspection alone. In this case, the Assessing Officer has simply relied on the deposition made at the time of inspection and the details for the stock variations said to have been furnished at the time of such inspection. Therefore, I find that the order of assessment cannot be sustained on the sole ground of non application of mind.

5. Accordingly, the impugned order is set aside and the matter is remitted back to the respondent for considering the matter afresh and pass orders after considering the objections raised by the petitioner. It is also made clear that this court is not expressing any view on the merits of the objections raised by the petitioner, as it is for the respondent to consider and decide. Such exercise shall be done by the respondent within a period of eight weeks from the date of receipt of a copy of this order. The writ petition is allowed as indicated above. No costs. The connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

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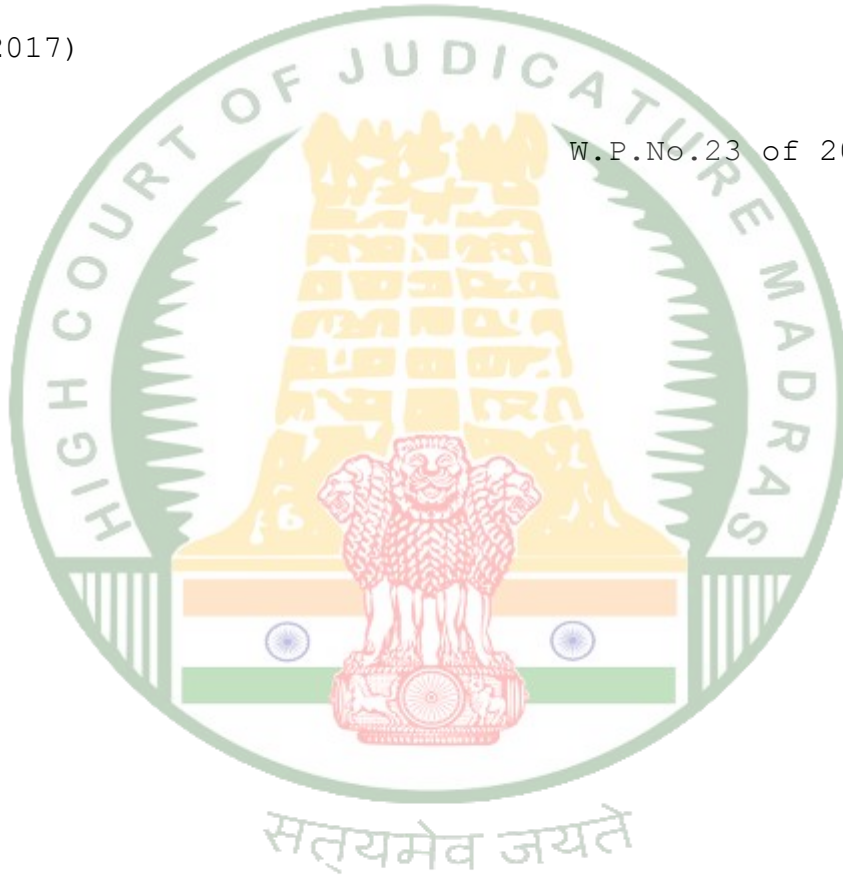
Sub Assistant Registrar

To
Assistant Commissioner (CT) (FAC),
Mettur Road Assessment Circle,
Erode,
Erode District.

+lcc to Mr.S. Rajasekar , Advocate, S.R.No.16112
+lcc to the Special Government Pleader, S.R.No.16335

vgII(CO)
md(24/03/2017)

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