IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.09.2017

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.23558 to 23562 of 2017 &
W.M.P.Nos.24709 to 24713 of 2017

Pon Mayil Construction,
Rep. by its Partner, P.Velan,
No.124/48, South Car Street,
Chidambaram-608 001. ... Petitioner in all W.Ps.

Vs.

1.Commercial Tax Officer,
Chidambaram-II Assessment Circle,
Chidambaram-608 001.

2.The Appellate Deputy Commissioner (CT),
Cuddalore, Cuddalore District. ... Respondents in all W.Ps.

Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the impugned proceedings of the 1st respondent herein TIN/33874462195/2014-15, 2010-11, 2011-12, 2012-13, 2013-14 respectively, dated 30.12.2016 and quash the same and direct the respondent to redo the assessment after giving personal hearing.

For Petitioner : Mr.R.Baskar

For Respondents : Ms.Narmadha Sampath,
Special Government Pleader

C O M M O N O R D E R

Heard Mr.R.Baskar, learned counsel for the petitioner and Ms.Narmadha Sampath, learned Special Government Pleader for the respondents. With the consent on either side, these writ petitions are taken up for final disposal.

2.The petitioner is aggrieved by orders of assessment passed by the first respondent dated 30.12.2016, which are orders passed after the matter was remanded by the Appellate Deputy

Commissioner (CT), Cuddalore by common order dated 26.07.2016 in five appeals filed by the petitioner against the assessment orders for the assessment years 2010-11, 2011-12, 2012-13, 2013-14 & 2014-15.

3.On perusal of the orders passed by the Appellate Deputy Commissioner (CT), it is seen that the appellate authority has properly considered the matter and found that the Assessing Officer has not provided the reasons for rejecting the turnover declared in the monthly returns. It is not in dispute that the monthly returns, though filed belatedly, were received by the first respondent with 'C' fee of Rs.20,000/-. Therefore, in terms of the orders passed by the appellate authority, the Assessing Officer was directed to call for the books of accounts of the petitioner, verify the same as wells as take note of the details of the monthly returns, then re-do the assessment. Though the Assessing Officer has issued notice to the petitioner to produce the books of accounts, which the petitioner has promptly produced, in the impugned assessment orders, there is no discussion or reasons given by the Assessing Officer as to why books of accounts should be rejected or why it should not be accepted.

4.In such circumstances, this Court find that the assessment orders are inconsistent with the direction issued by the Appellate Deputy Commissioner. This Court is conscious of the fact that the assessment orders were passed as early as on 30.12.2016. However, considering the fact that the assessment orders were directed to be re-done in terms of the order of the appellate authority, this Court is inclined to grant one more opportunity to the petitioner to go before the Assessing Officer.

5.Accordingly, these writ petitions are allowed, the impugned orders are set aside and the matter is remanded to the respondent for fresh consideration. The first respondent shall afford an opportunity of personal hearing to the petitioner, peruse the books of accounts, examine the returns filed by the petitioner and re-do the assessment in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

abr

To

1.The Commercial Tax Officer,
Chidambaram-II Assessment Circle,
Chidambaram-608 001.

2.The Appellate Deputy Commissioner (CT),
Cuddalore, Cuddalore District.

+5cc to Mr.R.Natarajan, Advocate SR.No.67290 to 67294

W.P.Nos.23558 to 23562 of 2017

RSI(CO)
GN(06/10/2017)