IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.Nos.13864 to 13866 of 2017
and
WMP.Nos.15051,15052 and 15053 of 2017

M/s.Renugambal Motors
rep. By its Partner,S.F.No.15/1, Palavanathaam,
Old Krishnapuram
Katpadi
Vellore District. ... Petitioner in all the W.Ps

vs.

Deputy Commercial Tax Officer,(Addl.),
Gudiyatham(East) Assessment Circle,
Gudiyatham,
Vellore District. ... Respondent in all the W.Ps

Prayer:

Writ Petitions filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the respondent and quash the assessment proceedings in TIN No.33614245737/2013-14,2014-15,2015-16 respectively dated 11.03.2016 based on the mismatch details taken from the departmental Web site and direct the respondent to pass fresh orders as per the decision of the Madras High Court in the batch of cases relating to mismatch and WEBSITE issues in W.P.105/2016 and other relating to M/s. JKM Graphics Solutions Pvt Limited & Others Vs. Commercial Tax Officer, Vepery Assessment Circle and others dated 01.03.2017 after providing an opportunity of personal hearing to the petitioner as required under Section 22(4) of TNVAT Act for the year 2013-14, 2014-15 and 2015-16 respectively and pass such further or other orders.

For Petitioner : Mr.C.Bakthasiromoni

For Respondent : Mr.S.Kanmani Annamalai,
Additional Government Pleader.

COMMON ORDER

In all these writ petitions, the petitioner is one and the same and aggrieved against the assessment orders passed in respect of the assessment years 2013-14, 2014-15 and 2015-16.

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

3. The grievance of the petitioner before this Court is that the impugned assessment orders were passed in violation of principles of natural justice as they were not preceded with issuance of notice of proposal. Apart from raising the above said contention, the learned counsel appearing for the petitioner submitted that the only issue, namely, mismatch which is the basis for the assessment is covered by the decision of this Court made in W.P.105/2016 etc. batch dated 01.03.2017 and therefore, the Assessing Officer has to redo the assessment once again, in the light of the directions/ procedures given by this Court in the above said decision.

4. Learned Additional Government Pleader, on verification of the original files, submitted that the notice of proposal was, in fact, served on the petitioner in respect of assessment year 2013-14 on 06.02.2016. However, in respect of the other two assessment years, the learned Additional Government Pleader submitted that the notices sent were returned unserved and consequently, by way of affixtures, the same were served.

5. Upon hearing the learned counsel appearing on either side and on considering the undisputed fact that the only issue involved before the Assessing Officer is the mismatch issue, this Court is of view that in view of the above said recent decision made by this Court in W.P.Nos.105/2016, the Assessing Officer has to do some exercise/ field work even before issuing the notice of proposal and therefore, the service of notice on the petitioner in these cases without following those procedures may not have any relevance for deciding the issue before this Court. Therefore, the matter has to go back to the Assessing Officer to redo the entire exercise from the stage of issuance of the notice of proposal by following the guidelines/ procedures issued by this Court in W.P.No.105/2016 etc. batch dated 01.03.2017.

6. Accordingly, these Writ Petitions are allowed and the impugned orders of assessment are set aside. Consequently, the matter is remitted back to the Assessing Officer to redo the assessment after following the guidelines/procedures issued by this Court in W.P.No.105/2016 etc. dated 01.03.2017. The Assessing Officer, before concluding the assessment, shall also give personal hearing to the petitioner. The whole exercise shall be completed by the Assessing Officer within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vsi/sji

To

The Deputy Commercial Tax Officer,(Addl.),
Gudiyatham(East) Assessment Circle,
Gudiyatham,
Vellore District.

+1cc to the Government Pleader, S.R.No.42459

W.P.Nos.13864 to 13866 of 2017

KGK(CO)
RS(20/06/2017)