IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.Nos.14205 & 14206 of 2017
and
WMP.Nos.15393 to 15396 of 2017

M/s.ASR Constructions,
Rep. by its Partner - K.Ravi,
No.17/1, E.V.N, Road,
Erode, Erode District. .. Petitioner
(in WP.Nos.14205 & 14206 of 2017)

Vs.

The Assistant Commissioner(CT),
Brough Road Circle,
Erode, Erode District.
.. Respondent
(in WP.Nos.14205 & 14206 of 2017)

Common Prayer:
These Writ petitions are filed under Article 226 of the Constitution of India, praying for issuance of Writs of Certiorari, to call for the records on the file of the Respondent in its impugned proceedings made in Tin Nos.33873003994/2012-13 and 33873003994/2013-14 dated 14.09.2016 and quash the same, respectively.

For Petitioner: Mr.J.Prasanna Kumar
(in WP.Nos.14205 & 14206 of 2017)
For Respondent : Mr.K.Venkatesh
Government Advocate
(in WP.Nos.14205 & 14206 of 2017)

C O M M O N O R D E R

Both these writ petitions are filed challenging the orders of assessment passed in respect of assessment years 2012-2013 & 2013-2014 dated 14.09.2016.

2. Mr.K.Venkatesh, learned Government Advocate takes notice for the respondent. By consent, the main writ petition itself is taken up for final disposal at the admission stage itself.

3. Heard both sides.

4. The only grievance of the petitioner is that the objections raised by the petitioner to the notice of proposal was not properly appreciated by the respondent, while passing the orders of assessment. In other words, the contention of the petitioner is that the reasonings given by the Assessing Authority are factually erroneous in the light of the objections raised by the petitioner.

5. There is no dispute to the fact that before passing those orders of assessment, the petitioner was given notice of proposal and they have also filed their objections. It is also not in dispute that the Assessing Authority has considered those objections but however, passed the impugned orders of assessment imposing the tax. Whether the Assessing Authority has appreciated the factual aspects of the matter as objected by the petitioner in a proper prospective or not, is certainly for the next fact finding authority viz., the First Appellate Authority, to consider and decide. In the absence of violation of principles of natural justice, I don't think that these writ petitions can be entertained, as all the points raised herein can be raised before the Appellate Authority, who is undoubtedly the fact finding authority as well.

6. Therefore, I am of the view that the petitioner has to approach the Appellate Authority, by way of filing regular Appeal, challenging the impugned orders of assessment. Accordingly, both these writ petitions are disposed of, only by granting liberty to the petitioner to file an appeal before the First Appellate Authority, within a period of two weeks from the date of receipt of a copy of this order. Till such appeal is filed, the respondent is directed not to take any coercive steps against the petitioner. It is made clear, that this Court, is not expressing any view on merits of the claim made by the petitioner, as it is for the Appellate Authority to consider and decide the same in the Appeal. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar(CS-VIII)

True Copy

Sub-Assistant Registrar

mk/ms

To

The Assistant Commissioner(CT),
Brough Road Circle,
Erode,
Erode District.

+1 CC to Spl. Govt. Pleader sr 40924
+2 Ccs to Ms. R. Hemalatha, Advocate sr 40859

W.P.Nos.14205 & 14206 of 2017

AK(CO)
sp/30/6