IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition Nos.14236 & 14237 of 2017
and
W.M.P.Nos.15435 to 15438 of 2017

M/s.Muzena Leathers,
Represented by its Proprietor,
No.7/24, Puli Street,
Ranipet, Walajah Taluk,
Vellore District 632 402. ... Petitioner
(in WP Nos.14236 & 14237 of 2017)

Vs.

The Assistant Commissioner (CT)
Ranipet. ... Respondent
(in WP Nos.14236 & 14237 of 2017)

Common Prayer:

Writ petition Nos. 14236 & 14237 of 2017 filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, to call for the records of the respondent in order dated 15.11.2016 in TIN 33504283579/2015-2016 (Order-II) and quash the same.

For Petitioner : Mr.Adithya Reddy
(in WP Nos.14236 & 14237 of 2017)

For Respondents: Mr.K.Venkatesh
Government Advocate.
(in WP Nos.14236 & 14237 of 2017)

COMMON ORDER

The petitioner is aggrieved by two different orders of assessment passed in respect of the assessment year 2015-2016 dated 15.11.2016, out of which one of the issue is that the purchase details of other dealers revealed that the petitioner had sold the goods to buyers and collected tax, which was not paid to the Department. The other issue on which the second impugned order came to be passed is that the other end dealers have not made any sales to the petitioner during the year 2015-2016.

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

3. Heard both sides.

4. It is seen that before passing the impugned orders of assessment, a notice of proposal was issued to the petitioner on 19.09.2016 and they also filed their reply on 13.10.2016. Perusal of the said letter dated 13.10.2016 would show that the petitioner has only sought a month's time to submit their reply, since they want to verify the accounts, as the correct and complete details were not available. When that being their reply, the Assessing Officer has chosen to treat the same as if their objections and consequently rejected such reply as not acceptable also by stating that such objections is over-ruled. First of all, it is to be noted that the petitioner has only sought for time and did not make their objections through letter dated 13.10.2016. Therefore, there is no question of over-ruling the same as observed by the Assessing Officer, which only shows the non-application of mind on the part of the Assessing Officer, while passing the impugned orders of assessment. Consequently, there is no difficulty in holding that the impugned orders are passed in violation of principles of natural justice and thus they cannot be sustained.

5. Accordingly, both the writ petitions are allowed and the impugned orders of assessment are set aside. Consequently, the matter is remitted back to the Assessing Officer to re-do the

assessment, after giving opportunity of hearing to the petitioner. The petitioner is directed to furnish their reply within a period of two weeks from the date of receipt of a copy of this order. On receipt of such reply/objections, the Assessing Officer will pass the final order of assessment, after giving personal hearing to the petitioner as well. Such exercise shall be done by the Assessing Officer within a period of four weeks from the date of receipt of the objections/reply. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

mk
To

The Assistant Commissioner (CT)
Ranipet.

+1cc to Mr.Adithiya Reddy, Advocate Sr.40799
+1cc to the Special Government Pleader Sr.40928 & 40930

WP Nos.14236 & 14237 of 2017

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srg 15/06/2017