IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:01.06.2017

C O R A M

THE HON'BLE Mr.JUSTICE K. RAVICHANDRABAABU

W.P.No.1455 of 2017
and
WMP.Nos.1371 and 1372 of 2017

M/s. Om Electricals,
rep. by is Proprietor,
S.Dinesh Chowdri
No.7/3, Mettur Road,
Erode-1,
Erode District. ...Petitioner

Vs

The Commercial Tax Officer
Mettur Road Circle,
Erode. ... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of certiorari to call for the impugned proceedings of the respondent in TIN No.33713043173/2015-16 dated 14.11.2016 and to quash the same as illegal and contrary to the provisions of the TNVAT Act, 2006

For petitioner ... Mr.S.Rajasekar

For respondent ... Mr. K. Venkatesh,
Government Advocate.

O R D E R

The petitioner is aggrieved against the order of assessment dated 14.11.2016 passed in respect of the assessment year 2015-16.

2. Learned counsel for the petitioner submitted that the respondent is not justified in passing the order of assessment on 14.11.2016, especially, when the petitioner was having time till 31.12.2016 to file Form-WW, since the turn over exceeds Rs.1 Crore. He further submitted that the petitioner, in fact, submitted Form-WW on 30.12.2016 and however, the respondent has

passed the impugned order well before the last date of submitting such Form. Therefore, he submitted that the impugned order of assessment cannot be sustained and on the other hand, the respondent has to be directed to reconsider the whole issue based on Form-WW submitted on 30.12.2016. In support of such contention, the learned counsel for the petitioner invited this Court's attention to an order passed in W.P.Nos.29733 and 32172 of 2013 dated 12.07.2016 wherein this Court, after considering the same issue, allowed the writ petitions and directed the respondent therein to consider the Form-WW submitted by the petitioner therein and complete the assessment after affording an opportunity of personal hearing to the petitioner therein.

3. Mr.K.Venkatesh, learned Government Advocate appearing for the respondent submitted that it is true that the petitioner has submitted Form-WW on 30.12.2016 and however, the assessment order came to be passed much earlier. He is not disputing the fact that the petitioner was having time till 31.12.2016 to file such Form-WW.

4. When it is an admitted position that the assessment has to be completed only after considering Form-WW and that the time for production of such Form also did not expire as on the date of assessment, I am of the view that the respondent is not justified in passing the order of assessment on 14.11.2016 when the petitioner had time till 31.12.2016 to file such Form-WW. Moreover, in this case, the petitioner has admittedly filed the said Form on 30.12.2016 and therefore, it is for the respondent to reconsider the whole issue in the light of Form-WW submitted by the petitioner. A perusal of the order passed by this Court in W.P.Nos.29733 and 32172 of 2013 dated 12.07.2016 also indicates that the impugned order herein cannot be sustained. Accordingly, the writ petition is allowed and the impugned order is set aside. Consequently, the respondent is directed to consider Form-WW submitted by the petitioner and pass fresh order of assessment after affording an opportunity of personal hearing to the petitioner. Such exercise shall be done by the respondent within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar(CSVIII)

True Copy

Sub-Assistant Registrar

vsi

To

The Commercial Tax Officer
Mettur Road Circle,
Erode

+1 cc to M/s.R.Hemalatha Advocate sr 39627
+1 cc to the Special Government Pleader (Taxes)
High Court Chennai sr 39476

W.P.No.1455 of 2017

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