IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:- 21.06.2017

CORAM:

THE HONOURABLE MR.JUSTICE RAVICHANDRABAABU

W.P.Nos.15502 & 15503 of 2017
and
W.M.P.Nos.16820 to 16823 of 2017

Tvl.Om Prakash Steel
Represented by its Proprietor
B.Hiralal Rajpurohit
No.146, Navalar Nedunzhelian Street,
Shevapet, Salem-2. ...Petitioner
(in WP Nos.15502 & 15503 of 2017)

Versus

The Deputy Commercial Tax Officer
Shevapet North Circle, Salem. ...Respondent
(in WP Nos.15502 & 15503 of 2017)

Prayer:

Writ Petition No.15502 of 2017 filed under Article 226 of the Constitution of India, praying for issuance of Certiorari, calling for the records on the files of the respondent in TIN:33122741973/2013-14 dated 06.01.2017 and quash the same as being without jurisdiction and authority of law and contrary to the principles of natural justice.

Writ Petition No.15503 of 2017 filed under Article 226 of the Constitution of India, praying for issuance of Certiorari, calling for the records on the files of the respondent in TIN:33122741973/2015-16 dated 06.01.2017 and quash the same as being without jurisdiction and authority of law and contrary to the principles of natural justice.



For Petitioner : Mr.R.Senniappan
(in WP Nos.15502 & 15503 of 2017)
For Respondent : Mr.K.Venkatesh,
Government Advocate
(in WP Nos.15502 & 15503 of 2017)

C O M M O N   O R D E R

Mr.K.Venkatesh, learned Government Advocate, takes notice for the respondent and by consent of the parties, these main writ petitions themselves are taken up for final disposal.

2. The petitioner is aggrieved by the orders of assessment dated 06.01.2017 passed in respect of the assessment years 2013-2014 and 2015-2016.

3. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondent.

4. The learned counsel appearing for the petitioner submitted that the only issue involved in these cases is mis-match and the said issue was already considered by this Court in WP.No.105 of 2016 etc., dated 01.03.2017, wherein certain directions / guidelines are issued to the Assessing Officer to follow while dealing with the issue of mis-match. Therefore, he submitted that when the Assessing Officer in these cases has not followed those procedures / guidelines, even before issuing the notice of proposal, failure to give a reply to the notice of proposal, will not absolve the liability of the Assessing Officer to pass the orders of assessment in accordance with the order passed by this Court in WP.No.105 of 2016 etc., dated 01.03.2017.

5. The learned Government Advocate appearing for the respondent submitted that since the petitioner has not utilized the opportunity by giving a reply to the show cause notice, the Assessing Officer is left with no other option, but to pass the assessment orders.

6. Heard both sides.

7. It is not in dispute that the only issue involved in these matters is the mis-match and the said issue was already covered by the decision of this Court made in WP.No.105 of 2016 etc., dated 01.03.2017. It is true that the petitioner has not utilized the opportunity by giving a reply to the notice of proposal. However, as pointed out by the learned counsel appearing for the petitioner, even before issuing the said notice of proposal, the Assessing Officer has to do some exercise as stipulated in the above said order passed by this Court in WP.No.105 of 2016 etc., dated 01.03.2017. Therefore, there is no purpose in saying that the petitioner has not given a reply to the show cause notice. In any event, as the Assessing Officer has to re-do the assessment in the light of the order passed by this Court in WP.No.105 of 2016 etc., dated

01.03.2017, this Court is of the view that the matter should be remitted back to the Assessing Officer for re-doing the assessment after giving an opportunity of hearing to the petitioner as well.

8. 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 for re-doing the assessment, commencing from the issuance of the notice of proposal after following the procedures / guidelines issued by this Court in WP.No.105 of 2016 etc., dated 01.03.2017. The whole exercise shall be completed by the Assessing Officer within a period of four 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

mk

To

The Deputy Commercial Tax Officer
Shevapet North Circle, Salem.

+1cc to Mr.R.Senniappan, Advocate, S.R.No.43812
+1cc to the Government Pleader, S.R.No.43711

W.P.Nos.15502 & 15503 of 2017

LRS(CO)
RS(03/07/2017)