IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.06.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P. No.25015 & 25016 of 2016
and WMP 21438 & 21439 of 2016

V.R.Nachimuthu (CBE)
Represented by S.R.Arvindkumar,
Managing Partner,
15, Varadarajan Street,
Gandhi Nagar, Erode.
.. Petitioner in both W.Ps

Vs

The Assistant Commissioner (CT)
Brough Road,
Erode.
.. Respondent in both W.Ps

Prayer in W.P.No.25015 of 2016: Writ petition filed under Article 226 of the Constitution of India praying to issue writ of certiorari calling for the records on the files of the respondent in TIN:33483002996/2010-11 dated 14.09.2015 and quash the same as being without jurisdiction and violative of principles of natural justice and hence invalid and illegal.

Prayer in W.P.No.25016 of 2016: Writ petition filed under Article 226 of the Constitution of India praying to issue writ of certiorari calling for the records on the files of the respondent in TIN:33483002996/2011-12 dated 14.09.2015 and quash the same as being without jurisdiction and violative of principles of natural justice and hence invalid and illegal.

For Petitioner : Mr.C.Venkatraman in both W.Ps.

For Respondent : Mr.K.Venkatesh, Government Advocate in both W.Ps.

COMMON ORDER

Both these writ petitions are filed challenging the order of the Assessing Authority dated 14.09.2015 passed in respect of the Assessment year 2010-2011 and 2011-2012 imposing penalty.

2. Heard both sides.

3. The learned counsel for the petitioner submitted that in respect of the above two said assessment years, the Assessing Officer passed orders for assessment of tax and penalty separately by passing two sets of orders one on 19.08.2015 and another on 14.09.2015. He further submitted that the orders of assessment and imposing tax on the petitioner were challenged before this Court in W.P.No.30541 & 30542 of 2015 and both the petitions were allowed on 25.07.2016, thereby setting aside the assessment order. Therefore, he submitted that the consequential orders imposing penalty, challenged in these writ petitions, cannot have legs to stand and consequently, they are also liable to be set aside.

4. The learned counsel for the petitioner in support of the above said submissions, produced a copy of the order passed in W.P.30541 & 30542 of 2015 dated 25.07.2016. The learned Government Advocate is not disputing the above said factual contentions raised by the learned counsel for the petitioner. As it is an admitted fact that the very order of assessment imposing tax is set aside by this Court in W.P.No.30541 & 30542 of 2015, consequential imposition of penalty, which is under challenge in these writ petitions, cannot be sustained. Therefore, both the writ petitions are allowed and impugned orders are set aside. No costs. Connected miscellaneous petitions are also closed.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

dpq

1. The Assistant Commissioner (CT)
Brough Road,
Erode.

+1cc to Mr.C.Venkatraman, Advocate in sr.no.43582
+1cc to The Special Government Pleader in sr.no.43561

W.P. No.25015 & 25016 of 2016
and WMP 21438 & 21439 of 2016

GJII(CO)
NR 30/06/2017