IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2018

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.5667 of 2018
and
WMP.No.7011 of 2018

Tvl.Tee Shoes
Represented by its Partner T.Mohamed Ameen
No.2, Atkinson Road, Vepery, Chennai-7. .. Petitioner

Vs.

The Commercial Tax Officer
Vepery Assessment Circle
No.10, Palaniappa Towers,
Greams Road, Chennai-6. .. Respondent

Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for the records on the files of the respondent in TIN 33940524296/2010-11 dated 14.07.2017 and quash the same being illegal, invalid, without jurisdiction and violated the principles of natural justice and contrary to the law.

For Petitioner : Mr.D.Vijayakumar
For Respondent : Mr.M.Hariharan
Additional Government Pleader (Tax)

O R D E R

This writ petition is filed challenging the order of assessment dated 14.07.2017 passed in respect of the assessment year 2010-2011.

2. Mr.M.Hariharan, learned Additional Government Pleader (Tax) takes notice for the respondent. By consent of the parties, the main writ petition is taken up for final disposal at the admission stage itself.

3. Heard both sides.

4. It is seen that in respect of the same assessment year, an order passed earlier on 18.03.2016 was put to challenge before this Court in WP.No.16089 of 2016 and this Court, by an order dated 28.04.2016 set aside the said assessment order and

remitted the matter back to the respondent for fresh consideration after issuing proper notice to the petitioner and after affording due opportunity of personal hearing. Thereafter, the Assessing Officer issued a notice to the petitioner on 13.06.2017 and the same was also served on the petitioner on 19.06.2017. However, the petitioner has not chosen to file any objections and produce materials before the Assessing Officer to pass the order of assessment. Therefore, the Assessing Officer, having left with no other option, has passed the order of assessment, based on the notice of proposal already issued. Now, the said order is challenged before this Court, by raising very many grounds on merits, which this Court is not inclined to entertain, as these factual aspects have to be gone into only by the Fact Finding Authority, which the petitioner failed to utilize. Alternatively, the petitioner has to agitate the matter only before the next Fact Finding Authority namely, the Appellate Authority, by filing regular appeal.

5. Therefore, this writ petition is disposed of, without expressing any view on the merits of the claim made by the petitioner, only with liberty to the petitioner to file an appeal before the Appellate Authority, within a period of two weeks from the date of receipt of a copy of this order. If any such appeal is filed within the time stipulated herein, the Appellate Authority shall consider the same on its own merits and pass orders on the same, without reference to the period of limitation. The Registry is directed to return the original impugned order to the petitioner forthwith. No costs. Consequently, connected miscellaneous petition is closed.

Sd
ASSISTANT REGISTRAR

/TRUE COPY/

SUB ASSISTANT REGISTRAR

To
The Commercial Tax Officer
Vepery Assessment Circle No.10, Palaniappa Towers,
Greams Road, Chennai-6.

COPY To: THE SECTION OFFICR E.R. SECTION,
MADRAS HIGH COURT,MADRAS

1CC TO THE SPL GOVT. PLEADER SR.NO. 19770
1CC TO MR. D.VIJAY KUMAR, ADVOCATE SR.NO.: 19077

W.P.No.5667 of 2018

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