IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.08.2018

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.Nos.21065 to 21067 of 2018
and
WMP.Nos.24719 to 24721 of 2018

Surya Hardwares and Electricals
Rep. by its Proprietor
Sukharam ... Petitioner
(in WP.Nos.21065 to 21067 of 2018)

vs.

The Commercial Tax Officer
Sriperambadur Assessment Circle
Varadharajapuram - 602 103.
... Respondent
(in WP.Nos.21065 to 21067 of 2018)

Common Prayer:

Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the impugned proceedings of the respondent passed TIN Nos.33431661950/2013-2014, 33431661950/2014-2015 and 33431661950/2015-2016 respectively dated 16.02.2018 and quash the same and further direct the respondent to re-do the assessment in accordance with law, after providing sufficient opportunity and personal hearing to the petitioner.

For Petitioner : Mr.N.Murali
(in WP.Nos.21065 to 21067 of 2018)

For Respondent : Mrs.G.Dhana Madhri
Government Advocate (Tax)
(in WP.Nos.21065 to 21067 of 2018)

C O M M O N   O R D E R

All these writ petitions are filed by one and the same petitioner. The orders of assessment passed in respect of the assessment years 2013-2014, 2014-2015 and 2015-2016 dated 16.02.2018 are put to challenge in these writ petitions.

2. Mrs.G.Dhana Madhri, learned Government Advocate (Tax) takes notice for the respondent. By consent of the parties, these writ petitions are taken up for final disposal at the

admission stage itself.

3. The main grievance of the petitioner before this Court is that the impugned orders of assessment were passed without hearing the petitioner. Therefore, it is sought to be contended that the respondent has violated the principles of natural justice.

4. I do not think that the petitioner is entitled to raise such contention before this Court, when, admittedly, the Assessing Officer has issued the notices of proposal in respect of the assessment years 2013-2014, 2014-2015 and 2015-2016 and that the petitioner has not filed any reply to the said notices. Having failed to file such reply before the Assessing Officer, the petitioner is not entitled to canvass on the ground of violation of principles of natural justice. However, as it is stated by the petitioner that non-furnishing of reply was not deliberate or intentional and only due to the default of the consultant with whom the matter was entrusted to file the reply and agitate the matter, this Court is of the view that the petitioner can be given one more opportunity so that the Assessing Officer can pass the orders of assessment on merits.

5. Therefore, without expressing any view on the merits of the contentions raised as against the orders of assessment, these writ petitions are disposed of in the following terms:

(a) The petitioner and the respondent shall treat the impugned orders of assessment as the show cause notices/notices of proposal.

(b) The petitioner shall file their reply within a period of two weeks from the date of receipt of a copy of this order.

(c) The petitioner shall also pay 15% of the tax demand along with their reply in respect of each assessment years.

(d) On receipt of such reply and the payment of 15% of the tax demand as stated supra, within the time stipulated, the Assessing Officer shall consider the reply and also give an opportunity of personal hearing to the petitioner and thereafter, pass the orders of assessment on merits and in accordance with law, within a period of four weeks from the date of receipt of the reply and payment as stated supra.

No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

mk

To

The Commercial Tax Officer
Sriperambadur Assessment Circle
Varadharajapuram - 602 103.

+3ccs to Mr.N.Murali, Advocate sr.no.56581
+1cc to The Special Government Pleader(Taxes) sr.no.56532

W.P.Nos.21065 to 21067 of 2018

br(co)
nr 10/09/2018