IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.08.2018

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.21948 of 2018
and
WMP.No.25737 of 2018

Taurus Hides Private Limited
Represented by its Director
Kavitha Karthikeyan
808/4B, Thiruthani Road, Vannivedu Village,
Walajapet. ... Petitioner

vs.

The Assistant Commissioner (ST)
Ranipet Assessment Circle,
Ranipet. ..Respondent

Writ petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records of the respondent in TIN 33131025698/2017-2018 dated 10.07.2018 and quash the same.

For Petitioner : Mr.R.Kumar

For Respondent : Mr.M.Hariharan
Additional Government Pleader (T)

O R D E R

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.

2. The petitioner is aggrieved against the order of assessment dated 10.07.2018 passed in respect of the assessment year 2017-2018. The main grievance of the petitioner before this Court is that the Assessing Officer has not considered the objections filed by the petitioner independently and given his

finding on such objections. It is contended that the Assessing Officer, simply rejected the objections filed by the petitioner as an after thought, by stating that the petitioner has not explained the details at the time of inspection by the Inspecting Officials.

3. The learned counsel for the petitioner submitted that once a reply is furnished in response to the notice of proposal, the Assessing Officer has to consider the said reply independently, uninfluenced by the report filed by the Inspecting Officials and thereafter, to pass the order of assessment, based on his independent reasoning and finding. Thus, he contended that the assessment made without considering the reply cannot be sustained.

4. The learned Additional Government Pleader (Tax) for the respondent contended that the reasons stated by the petitioner in the reply were not placed before the Inspecting Officials. Though he contended so, he is fair enough to accept the position that the Assessing Officer has to independently apply his mind to the objections raised by the petitioner and thereafter, to pass the order of assessment, by giving reasons and findings.

5. Heard both sides.

6. Upon hearing the learned counsels appearing for the respective parties and on perusing the impugned order of assessment, it is seen that the Assessing Officer has rejected the objections raised by the petitioner, as an after thought, simply because, those objections were not placed before the Inspecting Officials at the time of inspection. Thus, it is evident that the Assessing Officer has not dealt with the objections raised by the petitioner independently and given any finding as to how those objections are not acceptable. Therefore, I find that the order of assessment impugned in this writ petition cannot be sustained, solely on the reason that the Assessing Officer has failed to consider the objections filed by the petitioner independently. Needless to say that the Assessing Officer has to apply his mind independently to the facts and circumstances and the objections filed by the Assessee and pass the order of assessment, without solely placing reliance on the inspection report. Thus, this Court is of the view that the matter has to go back to the Assessing Officer for re-doing the assessment once again, after considering the objections raised by the petitioner.

7. Accordingly, this writ petition is allowed and the impugned order is set aside. Consequently, the matter is remitted back to the Assessing Officer to re-do the assessment once again, after considering the objections raised by the

petitioner and pass orders on merits and in accordance with law. It is made clear that this Court is not expressing any view on the merits of the objections raised by the petitioner, as it is for the Assessing Officer to consider and decide. The Assessing Officer shall pass fresh order of assessment within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

mk
To

The Assistant Commissioner (ST)
Ranipet Assessment Circle,
Ranipet.

+1cc to Mr.R.Kumar, Advocate Sr.58882
+1cc to the Special Government Pleader(Taxes) Sr.58983

W.P.No.21948 of 2018

srg 11/09/2018