IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.09.2018

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition Nos.22711 to 22714 of 2018
and
WMP.Nos.26550 to 26553 of 2018

Tvl.Shawntharya Agency
Represented by its Proprietor
No.2/22, Keeraikara Street,
Parangipettai,
Chidambaram Taluk - 608 502. ..Petitioner
(in WP Nos. 22711 to 22714 of 2018)

vs.

The Commercial Tax Officer
Chidambaram-I. ..Respondent
(in WP Nos. 22711 to 22714 of 20180

Writ petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records of the respondent in order dated 16.02.2017 in TIN 33134441456/2012-2013, 2013-2014, 2014-2015 & 2015-2016 respectively and quash the same.

For Petitioner : Mr.Adithya Reddy
(in WP Nos. 22711 to 22714 of 2018)
For Respondent :Mrs.G.Dhana Madhri
Government Advocate (Tax)
(in WP Nos.22711 to 22714 of 2018)

C O M M O N O R D E R

In all these writ petitions, the petitioner is one and the same. These writ petitions are filed challenging the orders of assessment passed in respect of the assessment years 2012-2013, 2013-2014, 2014-2015 & 2015-2016.

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

3. The only issue involved in these cases, which has resulted in passing the impugned orders of assessment, is with regard to mis-match. It is not in dispute that this Court has already considered such issue and passed an elaborate order in a batch of cases made in WP.No.105 of 2016 etc., dated 01.03.2017 in JKM Graphics Solutions Vs. CTO, ([2017] 1999 VST 343).

4. Therefore, it is contended by the learned counsel for the petitioner that the impugned orders passed without following those procedures laid down by this Court, in the above said decision, cannot be sustained.

5. However, the fact remains that the petitioner in these cases has not filed their reply/objections to the notices of proposal.

6. The learned counsel for the petitioner contended that non-filing of reply is sought to be explained by stating that the petitioner's accountant was looking after the accounts, who had fallen ill and was on leave and therefore, the reply to the notices of proposal was not given in time. Thus, he sought one more opportunity for the petitioner to file their reply, so that the respondent/Assessing Officer can pass the orders of assessment afresh, after considering the reply filed by the petitioner. In support of his contention, the learned counsel relied on an order passed in WP.Nos.19222 & 19223 of 2018 dated 30.07.2018, wherein, this Court, while remitting the matter to the Assessing Officer, has directed the petitioner to pay 15% of the tax demand in each case, in similar situations.

7. It is seen that the only dispute which has fallen for consideration before the Assessing Officer was in respect of mis-match. It is also not in dispute that such issue has already been dealt with by this Court in the above said batch of cases. Therefore, the Assessing Officer has to re-do the assessment, by following the procedures contemplated in the above said batch of cases. At the same time, as the petitioner has not filed their reply to the notices of proposal, this Court is of the view that the matter can be remitted back to the Assessing Officer, only by imposing certain conditions on the petitioner to comply, so that the interest of both parties will be protected.

8. Accordingly, these writ petitions are disposed of, in the following terms and conditions:

(a) The petitioner and the respondent/Assessing Officer are directed to treat the respective impugned orders of assessment as notices of proposals.

(b) The petitioner is directed to furnish their reply to the said notices of proposal along with payment of 15% of the tax demand in each case, within a period of two weeks from the date of receipt of a copy of this order.

(c) On receipt of such reply along with 15% of the tax payment, the Assessing Officer shall consider the objections raised by the petitioner, and after giving due opportunity of personal hearing to them, pass the orders of assessment on merits and in accordance with law, as expeditiously as possible.

No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

mk

To

The Commercial Tax Officer
Chidambaram-I.

+ 1 cc to Mr.Adithya Reddy, Advocate Sr.61005
+ 1 cc to Special Government Pleader Sr.60696

W.P.Nos.22711 to 22714 of 2018

VGI(CO)
EU(20/09/2018)