IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.09.2018

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition Nos.23369 to 23372 of 2018
and
WMP Nos.27275 to 27278 of 2018

M/s.Annai Agencies
Represented by its Proprietor
No.1109 Vandavasi Road,
Kilkodungalur - 604 403.

..Petitioner
(in WP.Nos.23369 to 23372 of 2018)

Vs.

The State Tax Officer (FAC)
Vandavasi.

..Respondent
(in WP.Nos. 23369 to 23372 of 2018)

Writ petitions filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records of the respondent in his proceedings in TIN:33984602348/2012-2013, 2013-2014, 2013-2014 and 2014-2015 respectively and quash the assessment orders dated 25.07.2018 passed therein.

For Petitioner: Mr.P.V.Sudakar
(in WP.Nos. 23369 to 23372 of 2018)

For Respondent : Mr.Master Ganesh
Government Advocate (Tax)
(in WP.Nos. 23369 to 23372 of 2018)

C O M M O N   O R D E R

The petitioner is one and the same in all these writ petitions. They are aggrieved against the orders of assessment passed in respect of the assessment years 2012-2013, 2013-2014 and 2014-2015 dated 25.07.2018.

2. The main grievance of the petitioner before this Court is that the Assessing Officer has not considered the reply filed by them, in response to the notices of proposal and thus, the said

assessment orders are an outcome of non-application of mind. It is specifically contended by the petitioner that for all the three assessment years, the petitioner has filed their reply before the Assessing Officer and however, the assessment orders proceeded to impose the tax and penalty on the petitioner, as though the petitioner failed to file their objections.

3. When the matter was listed for admission on 07.09.2018, the learned Government Advocate took notice for the respondent and sought time to get instructions on the above said contention raised by the petitioner. Accordingly, the matter is listed today, for further hearing.

4. The learned Government Advocate (Tax), based on instructions, submitted that the reply submitted by the petitioner in respect of the assessment years 2012-2013 and 2014-2015 are available in the records and however, the reply in respect of the assessment year 2013-2014 is not available in the records.

5. Perusal of the impugned orders of assessment in respect of all the three assessment years would show that the Assessing Officer has recorded a finding as though the petitioner has not at all filed their reply to the notices of proposal for all the three assessment years. As it is now admitted by the learned Government Advocate for the respondents that the replies are available in the records in respect of the assessment years 2012-2013 and 2014-2015, it is evident that said finding rendered by the Assessing Officer, as though the petitioner failed to file their objection, is factually in-correct. It is further seen that personal hearing was not given to the petitioner before concluding the assessment, more particularly, when the Assessing Officer also levied penalty on the petitioner.

6. Considering the above stated facts and circumstances, this Court is of the view that the Assessing Officer has to re-do the assessment once again, after considering the objections raised by the petitioner and also by giving them personal hearing. It is made clear that this Court is not expressing any view on the merits of the contentions raised by the respective parties, as this Court is satisfied to remit the matter back to the Assessing Officer only on the reason stated supra.

7. Accordingly, all these writ petitions are allowed and the impugned orders of assessment are set aside. Consequently, the matter is remitted back to the Assessing Officer to re-do the assessment once again on merits and pass orders on the same and in accordance with law, after considering the objections raised by the petitioner and also, by giving them an opportunity of personal hearing. The petitioner is directed to furnish a copy

of the reply made in respect of the assessment year 2013-2014 within a period of two weeks from the date of receipt of a copy of this order. On receipt of such reply and after considering the replies already filed in respect of the other two assessment years viz., 2012-2013 and 2014-2015 and also after affording an opportunity of personal hearing to the petitioner, the Assessing Officer shall pass fresh orders of assessment as stated supra, within a period of four weeks thereafter. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

mk

To

The State Tax Officer (FAC)
Vandavasi.

+1cc to Mr.P.V.Sudakar, Advocate, S.R.No.64540
+1cc to the Special Government Pleader, S.R.No.64696

W.P.Nos.23369 to 23372 of 2018

rsv(co)
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