IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.09.2018

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.23798 of 2018
and
W.M.P.No.27743 of 2018

Vasavi Snacks,
Represented by its Proprietor,
S.Krishna Raj,
97/132 Main Road,
Pudupettai,
Panruti (Rural)
Panruti. ... Petitioner

vs.

The Deputy Commercial Tax Officer,
Panruti (Rural)
Panruti. ... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records on the files of the respondent herein in TIN/33514501193/2013-14 dated 26.07.2018 and quash the same.

For Petitioner : Mr.N.Inbarajan

For Respondents : Mr.M.Hariharan
Additional Government Pleader (Tax)

O R D E R

The petitioner is aggrieved against the revised order of assessment dated 26.07.2018 passed in respect of assessment year 2013-14.

2. Heard Mr.N.Inbarajan, learned counsel appearing for the petitioner and Mr.M.Hariharan, learned counsel appearing for the respondent.

3. The main grievance of the petitioner against the impugned order of assessment is in two fold. Firstly, it is contended that the very notice of proposal itself was issued in the name of “Vasavi Traders”, while the petitioner/assessee is

"Vasavi Snacks". Therefore, it is contended that the very basis of the initiation of the proceedings in the name of a wrong person is erroneous and consequently, the assessment order passed thereafter, even though, in the name of the petitioner, cannot be sustained. In other words, it is the contention of the petitioner that they are prevented from making an effective reply to the notice of proposal since, the assessee's name was wrongly mentioned therein as stated supra.

4. Secondly, it is contended that while the original order of assessment determined the total turnover as Rs.6,02,530/-, suddenly through the impugned proceedings, the Assessing Officer has enhanced the taxable turnover as Rs.61,38,589/- without there being any material details as to how such huge amount has been arrived at, against the small trader like the petitioner.

5. When the matter was listed for admission on 12.09.2018, the learned Government Advocate took notice for the respondent and sought time to get instructions. Accordingly, the matter is listed today for further hearing. The learned Government Advocate based on instructions submitted that it is true that the notice of proposal dated 30.11.2017 was issued in the name of "Vasavi Traders", while the assessee, namely, the petitioner herein is only "Vasavi Snacks" and not "Vasavi Traders". Therefore, it is evident that the very initiation of the proceedings for revising the assessment by issuing the notice of proposal was on a wrong person. Needless to say that the notice of proposal should be addressed to the assessee with material details and particulars to the name and address as registered before the authority.

6. Admittedly, the notice of proposal did not contained those details and on the other hand, it was issued in the wrong name. Therefore, without going into the other merits of the matter, this Court is inclined to set aside the order of assessment and remit the matter back to the Assessing Officer to issue a fresh notice to the petitioner with material details and particulars, and thereafter, to pass the order of assessment on merits and in accordance with law, after following the due procedure which includes personal hearing to the petitioner.

7. Accordingly, the writ petition is allowed and the impugned order is set aside. Consequently, the matter is remitted back to the Assessing Officer to redo the assessment once again by commencing the proceedings from the stage of issuance of notice of proposal. The Assessing Officer shall also comply with principles of natural justice which includes personal hearing to the petitioner. The whole exercise shall be done by the Assessing Officer within a period of six weeks from the date of receipt of a copy of this order. It is made clear that this Court is not expressing any view on the merits of the assessment made by the respondent, as it is for the assessing officer to consider the same on its own merits and in accordance

with law. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

sni

To

The Deputy Commercial Tax Officer,
Panruti (Rural)
Panruti.

+1cc to Mr. N.Inbarajan, Advocate, S.R.No. 65210
+1cc to the Special Government Pleader(Taxes), S.R.No. 65166

W.P.No.23798 of 2018

GN(03/10/2018)