IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.09.2018

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THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition Nos.24556 to 24561 of 2018
and
WMP Nos.28589 to 28594 of 2018

M/s.Aro Granite Industries Ltd.,
Represented by its Managing Director
Sy.No.95/107, Koneripalli Village
Shoolagiri Via, Hosure-635 117.
..Petitioner
(in WP.Nos.24556 to 24561 of 2018)

Vs.

The Assistant Commissioner (CT)
Hosur (North)
Hosur.
..Respondent
(in WP.Nos. 24556 to 24561 of 2018)

Writ petitions filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records of the respondent in the impugned order in TIN No.33433320262/2010-2011, 2011-2012, 2012-2013, 2013-2014, 2014-2015 and 2015-2016 respectively dated 19.03.2018, quash the same, as it is grossly violating the principles of natural justice and also being contrary to the ratio of the decision of this Court in M/s.JKM Graphics Solutions Private Limited & Others Vs. Commercial Tax Officer (2017) 99 VST 343 and to direct the respondent to pass order afresh after providing an opportunity of personal hearing.

For Petitioner: Mrs.Radhika Chandrasekhar
(in WP.Nos. 24556 to 24561 of 2018)
For Respondent : Mr.Master Ganesh
Government Advocate (Tax)
(in WP.Nos. 24556 to 24561 of 2018)

C O M M O N O R D E R

Mr.Master Ganesh, learned Government Advocate (Tax) takes notice for the respondent. By consent of the parties, these main writ petitions are taken up for final disposal at the admission stage itself.

2. All these writ petitions are filed by one and the same petitioner, aggrieved against the orders of assessment passed in respect of the assessment years 2010-2011, 2011-2012, 2012-2013, 2013-2014, 2014-2015 and 2015-2016 dated 19.03.2018.

3. The main grievance of the petitioner before this Court is that the Assessing Officer, apart from not providing an opportunity of personal hearing, has erroneously passed the assessment orders, arising out of mis-match issue, without following various directions issued by this Court in WP.No.105 of 2016 etc., dated 01.03.2017. Therefore, it is contended that these impugned assessment orders, cannot withstand the scrutiny of this Court and consequently, are liable to be set aside and thus, the matter should be remitted back to the Assessing Officer to re-do the assessment once again.

4. The learned Government Advocate (Tax) appearing for the respondent contended that the Assessing Officer has considered the objections raised by the petitioner through their reply and thereafter, passed the orders of assessment and therefore, there is no error on the part of the Assessing Officer in passing these impugned orders. Even though it is stated so, the learned Government Advocate accepted the position that the petitioner was not given an opportunity of personal hearing.

5. Heard both sides.

6. It is seen that the issue involved in all these assessment years is in respect of mis-match. It is also not in dispute that this Court has already considered the matters pertaining to mis-match issue and passed a detailed order in WP.No.105 of 2016 etc., dated 01.03.2017, thereby, stipulating certain guidelines and directions to be followed by the Assessing Officer before finalising the assessment in respect of mis-match issue. As those procedures seem to have not been followed by the Assessing Officer in these cases, this Court is of the view that the Assessing Officer has to re-do the assessment, by following the guidelines/procedures issued by this Court in the above said batch of cases. Moreover, as it is seen that the petitioner was also not given an opportunity of personal hearing, especially, when the orders of assessment levied penalty also on the petitioner, this Court is of the view, even on this ground, the assessment orders cannot be sustained.

7. Accordingly, without expressing any view on the merits of the matter, all these writ petitions are allowed and the impugned orders of assessment are set aside only on the reasons and findings stated supra. Consequently, the matter is remitted back to the Assessing Officer to re-do the assessment and pass

fresh orders, after following the guidelines/procedures stipulated in WP.No.105 of 2016 etc., dated 01.03.2017 and also by affording an opportunity of personal hearing to the petitioner. The Assessing Officer shall complete the whole exercise as expeditiously as possible. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

The Assistant Commissioner (CT)
Hosur (North), Hosur.

+ 1 cc to Mr. Special Government Pleader Sr.64697
+ 1 cc to M/s. K. Vaitheeswaran, Advocate Sr.64360

W.P.Nos.24556 to 24561 of 2018

KAN(CO)
EU(03/10/2018)