IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2018

CORAM

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

W.P.No.14908 of 2018
&
W.M.P.No. 17623 of 2018

M/s.Lan Mark Shops India Pvt. Ltd.,
represented by its Account Executive
Mr.N.Selvam
No.616, 2nd Floor, Annasalai
Chennai- 600 006 ... Petitioner

Vs.

The Assistant Commissioner (ST)
Nungambakkam Assessment Circle
88, Mayor Ramanthan Road
Chennai – 600 031 ...Respondent

Prayer: Writ Petitions filed under Article 226 of Constitution of India, to issue a Writ of Certiorari calling for the records on the file of the respondent in TIN No.33820462088/2016-17 dated 31.05.2018 and quash the same as being without jurisdiction, authority of law and the principles of natural justice.

For Petitioner : Mr.R.Senniappan

For Respondent : Ms.G.Dhanamadhri
Government Advocate

O R D E R

Heard Mr.R.Senniappan, learned counsel for the petitioner and Ms.G.Dhanamadhri, learned Government Advocate appearing for the respondent. In the light of the glaring error, which is apparent on the face of the impugned Assessment Order, the writ petition itself is taken up for final disposal.

2.The respondent issued revision notice dated 06.02.2017 for which the petitioner submitted their objections on 01.03.2017. The respondent / Assessing Officer is required to consider the objections and afford an opportunity of personal hearing and take an independent decision in the matter. Unfortunately, the respondent has lost sight of the statutory duty conferred on her and rejected the objection in a single line stating that the same is not acceptable and it is an afterthought. This Court is of the view that the impugned order is a clear abdication of statutory power cast on the respondent while completing the assessment. This is sufficient to set aside the impugned order.

3. In the light of the above, this writ petition is allowed and the impugned order dated 31.05.2018 is quashed and the matter is remanded back to the respondent for fresh consideration. The respondent shall fix a date for personal hearing and consider the objections filed by the petitioner and if any details are required, the respondent shall call for the same and take an independent decision in the matter. The respondent should bear in mind the decision of the Hon'ble Division Bench of this Court in Madras Granites (P) Ltd., Vs. Commercial Tax Officer, Arisipalayam Circle, Salem and another reported in 2009 146 STC 642 (Mad), wherein the Hon'ble Division Bench held that the Assessing Officer is a quasi-judicial authority and in exercising his quasi-judicial function of completing the assessment, he is not bound by the instructions or directions of the higher authorities. No costs. Consequently, the connected miscellaneous petition is closed.

-s/d-
Assistant Registrar(CS-IX)

True Copy

Sub-Assistant Registrar

gpa
To

Assistant Commissioner (ST)
Kodingaiyur Assessment Circle
Station 5/79, II Floor
V Cross St, Kaviarasu Kannadasan Nagar
Kodingaiyur
Chennai - 600 118

+1 CC to Mr.R.Senniappan, Advocate sr 39318.
+1 CC to Govt. Pleader sr 39694

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EV(CO)
SP(03/07/2018)