

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.7.2018

CORAM :

The Honourable Mr. Justice T.S.SIVAGNANAM

Writ Petition Nos.18030 & 18031 of 2018 &
WMP.Nos.21321 & 21322 of 2018

Pachaiyappa's Readymades,
rep. By its Manager Kandavel

...Petitioner

Vs

1.The Assistant Commissioner (CT),
Kancheepuram Assessment Circle,
Kancheepuram, Kancheepuram
District.

2.The Appellate Deputy Commissioner
(Chennai South) (CT), III Floor,
PAPJM Buildings Annexe, No.1,
Greens Road, Chennai-6.

...Respondents

PETITIONS under Article 226 of The Constitution of India
praying for the issuance of Writs of Certiorari to call for the
records comprised in TIN-33171622614/2013-14 and TIN-
33171622614/2012-13, both dated 31.5.2017 passed by the 1st
Respondent and quash the same as unconstitutional and violation
of principles of natural justice.

For Petitioner : Mr.K.M.Malar Mannan

For Respondents : Mr.M.Hariharan, AGP

COMMON ORDER

Mr.M.Hariharan, learned Additional Government Pleader
accepts notice for the respondents. Heard both. By consent, the
writ petitions are taken up for joint disposal.

2. The petitioner is aggrieved by the impugned orders dated
31.5.2017 passed by the first respondent for the assessment
years 2012-13 and 2013-14 confirming the original assessment
orders dated 08.1.2016. The reason is that the petitioner did
not turn up for the personal hearing fixed on 25.5.2017.

3. The petitioner's explanation is that the authorized representative of the petitioner met with a road accident on 22.5.2017 and could not appear before the respondent for the personal hearing. Therefore, the petitioner has approached this Court at this juncture seeking one more opportunity.

4. The learned Additional Government Pleader points out that the impugned orders have been passed on 31.5.2017 and that the petitioner approached this Court at this juncture because revenue recovery proceedings have been initiated by the respondent by urgent notices dated 21.6.2018.

5. Be that as it may, this Court has to test the correctness of the orders dated 31.5.2017. As against the original assessment orders dated 08.1.2016, the petitioner preferred appeals in A.P.Nos.69 and 70/2016 before the Appellate Authority namely the second respondent. The said appeals were allowed by orders dated 16.12.2016 thereby the original assessment orders dated 08.1.2016 were set aside and the Assessing Officer was directed to examine the reply received from the petitioner and pass a speaking order. Even assuming that the petitioner did not respond to the notices, the first respondent has to take a decision on merits and he cannot revive the original assessment orders dated 08.1.2016, which were set aside by the Appellate Authority in the orders dated 16.12.2016. This fundamental error committed by the first respondent goes to the root of the matter thereby vitiating the impugned orders dated 31.5.2017.

6. For the above reasons, the writ petitions are allowed, the impugned orders are set aside and the matters are remanded to the first respondent for a fresh consideration. The first respondent is directed to issue notices to the petitioner, afford an opportunity of personal hearing, strictly abide by the directions issued by the Appellate Authority and redo the assessments in accordance with law. No costs. Consequently, the connected WMPs are closed.

सत्यमेव जयते

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

To

1.The Assistant Commissioner (CT),
Kancheepuram Assessment Circle,
Kancheepuram, Kancheepuram District.

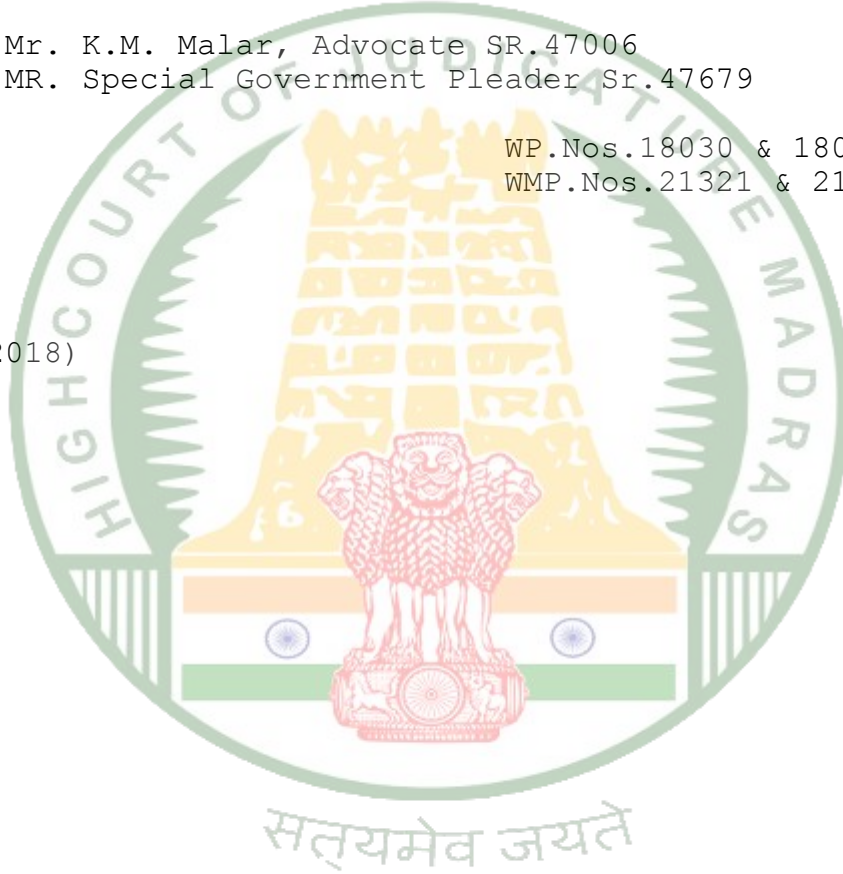
2.The Appellate Deputy Commissioner
(Chennai South) (CT), III Floor,
PAPJM Buildings Annexe, No.1,
Greams Road, Chennai-6.

+ 1 cc to Mr. K.M. Malar, Advocate SR.47006

+ 1 cc to MR. Special Government Pleader Sr.47679

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(CS-VI)
EU(02/08/2018)



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