IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.09.2018

CORAM
THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.Nos.18401 to 18403 of 2018
and
W.M.P.Nos.21713 to 21715 of 2018

Tvl.Anbu Agency,
Represented by its Proprietor,
R.Anbu,
No.5/1478, Bye-pass Road,
Dharmapuri- 636 701. ... Petitioner in all the W.Ps.

vs.

The State Tax Officer,
Dharmapuri Assessment Circle,
Dharmapuri. ... Respondent in all the W.Ps.

Writ Petitions 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 in TIN:33623284122/2011-12, TIN:33623284122/2012-13 TIN:33623284122/2013-14 respectively dated 11.06.2018 and quash the same as being without jurisdiction and authority of law and contrary to the direction issued by this Honorable Court in W.P.Nos.28708 to 20713 of 2017 dated 10.11.2017.

For Petitioner : Mr.R.Senniappan

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

COMMON ORDER

The petitioner is aggrieved against the orders of assessment passed in respect of assessment year 2011-12, 2012-13 and 2013-14 dated 11.06.2018

2. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents.

3. The main grievance of the petitioner before this Court is that the Assessing Officer has passed the impugned orders on an erroneous assumption that the petitioner has not filed any objection to the notice of proposals so far. It is the contention of the petitioner that already they had made objections on 06.09.2017 and 03.10.2017 and therefore, without considering those objections which are already on record, the Assessing Officer is not justified in concluding the assessment as though, there is no objection filed by the petitioner so far.

4. It is seen that the very same petitioner approached this Court and filed W.P.Nos.28708 to 28713 of 2017, challenging the notices issued by the Assessing Officer proposing to revise the assessment for the year 2011-12 to 2016-17. Those writ petitions were disposed of on 10.11.2017 with a direction to the Assessing Officer to independently consider the petitioner's objections dated 06.09.2017 and 03.10.2017, and pass a speaking order on merits and in accordance with law, after affording an opportunity of personal hearing to the authorised representative of the petitioner. Thereafter, the Assessing Officer issued further notice to the petitioner on 02.03.2018 and called upon them to produce documents, namely, purchase and sale invoices to prove that mis-match report is incorrect.

5. It is seen that the petitioner has not replied to the said notice. Consequently, the Assessing Officer has passed the impugned orders, however, by observing that the petitioner has not filed any objections so far. A careful perusal of the order already passed by this Court in W.P.Nos.28708 to 28713 of 2017 dated 10.11.2017 would clearly indicate that the Assessing Officer was already directed to consider the objections filed by the petitioner dated 06.09.2017 and 03.10.2017, and pass a speaking orders on merits and in accordance with law, after affording an opportunity of hearing to the petitioner. Therefore, it is seen that the Assessing Officer is not justified in concluding the assessment without considering those objections already filed by the petitioner, even assuming that the petitioner has not filed any objections on receipt of the notice of proposal dated 02.03.2018. Therefore, it is evident that the Assessing Officer has not at all looked into the objections already filed by the petitioner on 06.09.2017 and 03.10.2017, which, in effect, is not in consonance with the direction issued by this Court in the earlier writ petition. Therefore, this Court is of the view that the Assessing Officer has to redo the assessment once again, after considering the objections already filed by the petitioner dated 06.09.2017 and 03.10.2017, and also by giving an opportunity of personal hearing to the petitioner.

6. Accordingly, these writ petitions are allowed and the impugned orders of assessment are set aside by remitting

the matter back to the Assessing Officer to redo the assessment after considering the objections already filed by the petitioner dated 06.09.2017 and 03.10.2017, and also by affording an opportunity of personal hearing to the petitioner. The petitioner is directed to furnish a copy of those objections already filed to the Assessing Officer within a period of two weeks along with further reply, if any, from the date of receipt of a copy of this order. On receipt of a copy of such objections as well as the further reply, if any, the Assessing Officer shall pass final order of assessment after hearing the petitioner in person, within a period of four weeks thereafter. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

The State Tax Officer,
Dharmapuri Assessment Circle,
Dharmapuri.

+1cc to Mr.R.Senniappan, Advocate, S.R.No.64849
+1cc to the Government Pleader(Tax), S.R.No.65165

W.P.Nos.18401 to 18403 of 2018

rrs 03/10/2018