IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:23.10.2018

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THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.Nos. 27398, 27406 and 27413 of 2018
in
W.M.P.Nos. 31908, 31915 and 31919 of 2018

M/s. AKC Lubricants (FIRM),
Rep. by its Partner Mr.A.K. Prabhu Raj
No:1, L.G.B. Nagar, Karur- 639002.
..Petitioner in all the W.Ps

vs.

1. The Assistant Commissioner (CT)
   Karur [West] Circle, Karur- 639006
2. Principal Secretary and Commissioner of Commercial Taxes
   Ezhilagam, Chepauk, Chennai- 600005.

.. Respondents in all the W.Ps

COMMON PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the order in TIN 33333784753/2010-11, TIN 33333784753/2011-12 and TIN 33333784753/2012-13 respectively, dated 19.07.2018, quash the same and further direct the first respondent to consider the second respondent's binding circular on him and the entire objections filed by the petitioner and to pass speaking order on merits.

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

C O M M O N O R D E R

These three writ petitions are filed challenging the orders of assessment passed in respect of assessment year 2010-11, 2011-12 and 2012-13 dated 19.07.2018.

2. Mr.M.Hariharan, learned Additional Government Pleader (Tax) takes notice for the respondents and by consent, these writ petitions are taken up for final disposal since, the issue involved herein, lies in a narrow campus.

3. Heard both sides.

4. The main grievance of the petitioner is that the Assessing Officer has mechanically passed the impugned assessment orders without considering the objections filed by the petitioner in detail. In other words, it is the grievance of the petitioner that the Assessing Officer has rejected the objection by simply stating that the "reply filed by them is rejected". Therefore it is contended that such non consideration amounts to violation of principles of natural justice.

5. The learned Additional Government Pleader though, contended that the Assessing Officer has passed the impugned orders only after considering the reply filed by the petitioner, has however, submitted that a detailed discussion on the objections is absent.

6. It is seen that the Assessing Officer issued a notice of proposal dated 11.05.2017. It is further seen that the petitioner through a detailed reply dated 27.06.2017, objected to the proposal. A careful perusal of the said reply would show that the petitioner has made their objections in detail with certain material facts and circumstances and in respect of each issue. However, perusal of the impugned order would only show that the Assessing Officer has simply rejected the objections with one line finding that he rejected the objections on careful verification of reply and documents produced by the petitioner. Except saying so, the Assessing Officer has not stated anything in detail as to how all the objections are unsustainable. Therefore, I find force on the objection raised by the petitioner against the impugned order that the same has been passed in total non-application of mind. Further it is seen that the Assessing Officer has also imposed penalty without giving an opportunity of personal hearing to the petitioner. Therefore, on this ground also the impugned order is liable to be set aside.

7. Considering the above stated facts and circumstances, these writ petitions are allowed and the impugned orders are set aside and consequently the matter is remitted back to the Assessing Officer to redo the assessment after considering the objections already filed by the petitioner in detail and also by providing an opportunity of personal hearing to the petitioner. Such 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 as well as the objections raised by the petitioner as it is for the respondents to consider and decide. No. costs.

Consequently, connected miscellaneous petitions are closed.

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Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1. The Assistant Commissioner (CT)
   Karur [West] Circle, Karur- 639 006.

2. Principal Secretary and Commissioner of Commercial Taxes
   Ezhilagam, Chepauk, Chennai- 600 005.

+3ccs to Mr.S.Sivakumar, Advocate S.R.No.72223
+1cc to the Spl. Govt. Pleader (Taxes), S.R.No.72667

KR/30/10/18 W.P.Nos.27398, 27406 and 27413 of 2018