IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:22.10.2018

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.26772 of 2018
and
WMP.No.31123 of 2018

Tvl KEF Infrastructure India Private Limited
231/A, 232/4, Vinayagapuram Village
Gurubarapalli Post
Krishnagiri-635 115.
Represented by its Finance Controller ... Petitioner

Vs.

The State Tax Officer
Krishnagiri Assessment Circle
Krishnagiri 635 001. ... Respondent

Writ Petitions filed under Article 226 of the Constitution of India praying to issue a WRIT OF CERTIORARI, calling for the records of the respondent in TIN 33803307497/2014-2015 dated 31.08.2018 and quash the same.

For Petitioner : Mr.Adithya Reddy
For Respondent : Mrs.G.Dhana Madhri
Government Advocate (Tax)

O R D E R

Mrs.G.Dhana Madhri, learned Government Advocate (Tax) takes notice for the respondent. By consent of the parties, the main writ petition is taken up for final disposal at the admission stage itself.

2. The petitioner is aggrieved against the revision of assessment dated 31.08.2018 passed in respect of the assessment year 2014-2015.

3. The grievance of the petitioner before this Court is that the Assessing Officer has failed to consider the reply filed by the petitioner in response to the notice of proposal dated 08.06.2018. It is contended by the learned counsel for the petitioner that though the impugned order was passed on 31.08.2018, the same was communicated to the petitioner after receipt of the reply submitted by them. Therefore, he contended that the Assessing Officer ought to have considered the reply and passed a fresh order.

4. I am unable to appreciate the above contention. Admittedly, the notice of proposal dated 08.06.2018 was served on the petitioner in time, calling upon them to file their explanation with documentary evidence within 15 days on receipt of the said notice. There is no dispute to the fact that the petitioner did not file such reply within the time stipulated in the said notice. On the other hand, the reply to the said notice itself was made on 04.09.2018, by which time, the Assessing Officer has already passed the impugned order of assessment on 31.08.2018. The Assessing Officer has specifically pointed out that the petitioner did not file any objection. Under the above circumstances, the Assessing Officer cannot be faulted in passing the order in the absence of any reply from the petitioner. Belated filing of reply cannot be a ground to contend that the Assessing Officer ought to have reconsidered the matter, when he has chosen to communicate the impugned order only after receipt of such reply. Therefore, I am of the view that the petitioner, who failed to file the reply to the notice of proposal, has to necessarily agitate the matter only before the next fact finding authority viz., the First Appellate Authority, by filing a regular appeal.

5. Therefore, without expressing any view on the merits of the matter, this writ petition is disposed of, by granting liberty to the petitioner to file a statutory appeal within a period of two weeks from the date of receipt of a copy of this order, by observing all other statutory requirements. If any such appeal is filed, the first Appellate Authority shall consider the same and pass orders on merits and in accordance with law without reference to the period of limitation. No costs. Consequently, connected miscellaneous petition is closed.

Mk

Sd/-
Asst.Registrar (CS IX)

/true copy/

Sub Asst. Registrar

To

The State Tax Officer
Krishnagiri Assessment Circle
Krishnagiri 635 001.

+ 1 cc to The Spl.Govt. Pleader, (Taxes) Sr 71893

KR/13/11/18