IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.11.2018

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.26831 of 2018
and
W.M.P.No.31181 of 2018

Gus Clothing Company
Rep. by its Partner
G.Umashankar
2/547, First Floor,
Uthukuli Road,
S.Periyapalayam,
Perundurai Taluk. ...Petitioner

vs.

The State Tax Officer
Perundurai. ...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records of the respondent in his proceedings passed in TIN No.33152503191/2013-14 and quash the impugned order dated 04.09.2018 passed therein.

For Petitioner : Mr.B.Raveendran

For Respondent : Mrs.G.Dhana Madhri
Government Advocate (Income Tax)

O R D E R

The petitioner is aggrieved against the order of assessment dated 04.09.2018, passed in respect of assessment year 2013-14.

2. Heard both sides.

3. The only grievance of the petitioner is that the Assessing Officer has erroneously passed the impugned order as if the petitioner did not file any reply to the notice of proposal, while the fact remains that the same dated 12.09.2016 was acknowledged by the respondent on the same day. In support of such contention, the petitioner filed the entry made in the

delivery register to show as if the said reply was received at the office of the respondent. However, the learned Government Advocate, based on instruction submitted that no such reply is available in the file.

4. Considering the above stated facts and circumstances and considering the claim made by the petitioner as if such reply was filed on 12.09.2016, this Court is of the view that the matter can be given quietus, if the same is remitted back to the Assessing Officer to redo the assessment after giving one more opportunity to the petitioner to file their reply so that the order of assessment can be passed on merits once again.

5. Accordingly, without expressing any view on the merits of the assessment as well as the reply said to have been submitted by the petitioner, this writ petition is allowed and the matter is remitted back to the Assessing Officer on the following terms and conditions:

a. The petitioner shall file a copy of their reply dated 12.09.2016 before the Assessing Officer within a period of two weeks from the date of receipt of a copy of this order.

b. On receipt of such reply, the Assessing Officer shall fix the date of personal hearing and inform the same to the petitioner.

c. On completion of such personal hearing, the Assessing Officer shall pass final order of assessment on merits and in accordance with law within a period of six weeks thereafter.

No costs. Consequently, the connected miscellaneous petition is closed.

sni/vri

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

To
The State Tax Officer
Perundurai.

+1CC TO Mr.B.Raveendran,Advocate,SR.NO.77639

W.P.No.26831 of 2018

SS(CO)
KAK(30/11/2018)