IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.10.2018

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.Nos.27136 & 27145 of 2018
and
WMP.Nos.31543 & 31551 of 2018

M/s.Annamalaiyar Marketing
Rep. by its Proprietor
No.90, Amman Koil Street
Thandarampattu Village & Taluk
Tiruvannamalai - 606 707.

... Petitioner (in both WPs)

Vs.

The Deputy State Tax Officer
Tiruvannamalai-II Assessment Circle
Tiruvannamalai.

... Respondent (in both WPs)

Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the respondent and quash the assessment proceedings in TIN No.33774663137/2014-2015 & 2015-2016 respectively dated 13.12.2017 and direct the respondent to pass fresh orders after considering reply letter filed by the petitioner on 12.10.2017 and to pass orders after providing an opportunity of personal hearing to the petitioner.

For Petitioner : Mr.C.Bakthasiromoni (in both WPs)
For Respondent : Mr.M.Hariharan Additional Government Pleader (T) (in both WPs)

COMMON ORDER

Mr.M.Hariharan, learned Additional Government Pleader (T) takes notice for the respondent. By consent of the parties, these main writ petitions are taken up for final disposal at the admission stage itself.

2. Both these writ petitions are filed challenging the orders of assessment dated 13.12.2017 passed in respect of the assessment years 2014-2015 and 2015-2016.

3. The learned counsel for the petitioner submitted that the impugned orders are passed in violation of principles of natural justice. In support of such contention, the learned counsel invited this Court's attention to the objection filed by the petitioner to the notices of proposal dated 12.10.2017, which was also acknowledged by the respondent on the very same day.

4. The grievance of the petitioner is that even though such objection was filed by the petitioner and received by the respondent, the Assessing Officer proceeded to pass the impugned orders of assessment as though the petitioner did not file any objection. The other contention is that even otherwise, the Assessing Officer has not given an opportunity of personal hearing to the petitioner before passing the impugned orders, which again violates the principles of natural justice, more particularly, when the turn over proposed was under Section 22(4) of the Tamil Nadu Value Added Tax Act, 2006.

5. The learned Additional Government Pleader for the respondent, on going through the objection filed by the petitioner dated 12.10.2017, which was received by the respondent on the very same day, fairly submitted that the impugned orders referring as though the petitioner has not filed any objection, is based on mistake of fact. He has also admitted to the position that the petitioner was not afforded with an opportunity of personal hearing. Therefore, he submitted that the matter may be remitted back to the Assessing Officer.

6. Perusal of the objection filed by the petitioner dated 12.10.2017 which has an endorsement of the respondent indicating that the same was received by them on the very same day and further considering the fact that the Assessing Officer proceeded to pass the impugned orders as though the petitioner has not filed any objection, would show that the impugned orders were passed in total non-application of mind, apart from the fact that the same violates the principles of natural justice, more particularly, when the fact remains that the petitioner was also not afforded with an opportunity of personal hearing.

7. Considering all these facts and circumstances, without expressing any view on the merits of the assessment, these writ petitions are allowed and the impugned orders are set aside. Consequently, the matter is remitted back to the Assessing Officer to re-do the assessment once again, after giving due opportunity of hearing to the petitioner and after considering the objection already filed by the petitioner. Since the issue involved in these assessment pertains to mis-match, the Assessing Officer is also directed to pass the orders of assessment after following the directions/guidelines issued by this Court in a batch of cases in WP.No.105 of 2016

etc., dated 01.03.2017, reported in JKM Graphics Solutions Vs. CTO, ([2017] 1999 VST 343). The whole exercise shall be done by the Assessing Officer within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.
Mk

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

To

The Deputy State Tax Officer
Tiruvannamalai-II Assessment Circle
Tiruvannamalai.

+ 1 cc to Mr.C.Bakthasiromoni, Advocate S.R.No.71223

+ 1 cc to the SPL. G.P. (TAXES), S.R.No. 71346

KR/9/11/18

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