IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 22.11.2018

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THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.Nos.28304, 28298, 28311 and 28314 of 2018
and
W.M.P.NOs.33003, 32999,33009 and 33015 of 2018

M/s.Dynamic Products,
Rep. by its Managing Partner
A.T.Ravichandran,
S/o.R.P.Thyagarajan,
No.G-12, Vyasarpadi Co-operative
Industrial Estate Limited,
Vyasarpadi, Chennai 600 039. ..Petitioner
in all W.Ps.

Vs.

The Commercial Tax Officer,
Washermanpet Assessment Circle,
No.19/20, Kumalamman Koil Street,
Tondiarpet,
Chennai 600 021. ..Respondent
in all W.Ps.

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of certiorari to call for the records pertaining to the impugned orders passed by the respondent in TIN No.33381222325/2010-11, 33381222325/2011-12, 33381222325/2012-13 and 33381222325/2014-15 dated 31.07.2018 and quash the same as unconstitutional and violation of principles of natural justice.

For Petitioner : Mr.K.Malar Mannan
in all W.Ps.
For Respondents : Mr.M.Hariharan
in all W.Ps. Additional Government Pleader

C O M M O N   O R D E R

In all these cases, the writ petitions are filed challenging the order of assessment dated 31.07.2018 passed in respect of the assessment years 2010-11, 2011-12, 2012-13 and 2014-15.

2. Heard both sides.

3. It is vehemently contended by the learned counsel for the petitioner that one of the issue involved viz.,mismatch issue dealt with by the Assessing Officer in the impugned order of assessment, was not handled by following the procedure/guidelines issued in WP.No.105 of 2016 etc., dated 01.03.2017, reported in JKM Graphics Solutions Vs. CTO, ([2017] 1999 VST 343). Therefore, it is contended that the impugned proceedings cannot be sustained. It is further contended that the Assessing Officer, having chosen to impose penalty, should have given personal hearing to the petitioner.

3. Learned Additional Government Pleader appearing for the respondent submitted that before passing the impugned order, the petitioner was issued with notice of proposal and however, they have not chosen to file their reply. In so far as the personal hearing is concerned, the learned Government Pleader submitted that since the petitioner has not filed their reply, no personal hearing was given.

4. There is no dispute to the fact that the one of the issues involved in these cases is mismatch issue. It is also not in dispute that the said issue has been considered and decided as to how it should be handled in the case reported in JKM Graphics Solutions Vs. CTO, ([2017] 1999 VST 343). Admittedly, the present impugned assessment order was passed after the order passed by this Court in the said batch of cases. Therefore, the Assessing Officer ought to have followed the guidelines/directions issued in the above said case. As the Assessing Officer has not followed those guidelines and directions and also in view of the fact that the petitioner has not given any personal hearing before imposing penalty, this Court is inclined to set aside the order and remit the matter back to the Assessing Officer to redo the assessment in so far as the mismatch issue and imposition of penalty are concerned. In so far as the other issues dealt with the impugned orders of assessment, it is for the petitioner to challenge the same by way of filing statutory appeal before the appellate authority. This Court is not interfering with the other issues dealt with the Assessing Officer, as the petitioner is relegated to file appeal against such issues.

5. Accordingly, the writ petitions are allowed in part and the impugned orders of assessment are set aside only in so far as the mismatch issue and imposition of penalty are concerned. Consequently, the matter is remitted back to the Assessing Officer to redo the assessment by following procedures/guidelines issued in JKM Graphics Solutions Vs. CTO, ([2017] 1999 VST 343) and also by providing opportunity of personal hearing to the petitioner, within a period of ten

weeks. The petitioner is granted liberty to file appeal with a certified copy of the order against the other issues within a period of two weeks from the date of receipt of a copy of this order. No costs. The connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

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To

The Commercial Tax Officer,
Washermanpet Assessment Circle,
No.19/20, Kumalamman Koil Street,
Tondiarpet,
Chennai 600 021.

+ 1 cc to MR. Special Government Pleader Sr.80128
+ 4 cc to Mr.K.M. Malar Mannan, AdvocateSr.180142,
80142, 80143, 80144

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AD(CO)
EU(13/12/2018)