IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.10.2018

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.Nos.28076, 28079, 28086, 28093 & 28095 of 2018
and
WMP.Nos.32708, 32710, 32714, 32720, 32729, 32732, 32743, 32744, 32746 & 32747 of 2018

M/s.Aleef Auto Centre
Rep. by its Proprietor Mohammed Ameenudeen
Hajiyar Nagar, East Coast Road,
Pudupattinam, Kalpakkam,
Kancheepuram District. ... Petitioner (in all WPs)

Vs.

The Assistant Commissioner (CT) (FAC)
Thirukkazhukundram Assessment Circle
No.42, Wahab Nagar
Thirukkazhukundram
Kancheepuram District. ... Respondent (in all WPs)

Writ Petitions 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 in TIN/33131601587/2010-2011, 2011-2012, 2012-2013, 2013-2014, 2014-2015 dated 20.03.2018 and quash the same.

For Petitioner : Mr.S.Ramanathan (in all WPs)

For Respondent : Mr.M.Hariharan Additional Government Pleader (in all WPs)

COMMON ORDER

Mr.M.Hariharan, learned Additional Government Pleader 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. All these writ petitions are filed challenging the orders of assessment dated 28.03.2018 in respect of the assessment years 2010-2011 to 2014-2015.

3. The main grievance of the petitioner against the impugned orders of assessment is that the same was passed in violation of principles of natural justice. It is the specific case of the petitioner that the Assessing Officer has not served any notice of proposal on the petitioner to the new address which was intimated to him through communication dated 27.10.2015. In other words, it is the contention of the petitioner that they closed the business during the year 2015 and also sought for cancellation of their Tin Number through their communication dated 27.10.2015, specifically by stating the residential address for further correspondence, however, the Assessing Officer has chosen to pass the orders of assessment by confirming the proposal even though he observed that the notice issued to the petitioner was returned by the postal authority with an endorsement "no such dealer is doing business in the said address".

4. When the matter was taken up for hearing on 25.10.2018, the learned Government Advocate who took notice for the respondent sought time to verify the actual state of affairs. Accordingly, the matter is listed today for further hearing.

5. The learned Additional Government Pleader fairly submitted that the notice was returned with an endorsement as no such dealer is doing business at the address to which the said notice was sent. Therefore, he submitted that the respondent may be permitted to pass fresh orders after issuing fresh notice to the petitioner's address given in their communication dated 27.10.2015.

6. It is not in dispute that the petitioner has already sent a communication dated 27.10.2015 to the respondent by stating that they have closed the business at Hajiyar Nagar, East Coast Road, Pudupattinam, Kalpakkam, Kanchipuram District, also by informing that the residential address of the petitioner as No.386, RMI Garden, Hajiyar Nagar, Pudupattinam, Kalpakkam - 603 102. However, perusal of the impugned orders would show that the said notice of proposal was sent to a person at Kanathur, Chengalpet, which is not the address of the petitioner. Therefore, it is evident that the notice of proposal was sent to the wrong address, apart from the fact that the respondent has not considered the intimation already given by the petitioner dated 27.10.2015 regarding the closure of the business and change of address. Therefore, the impugned assessment orders passed without putting the petitioner on notice is in clear violation of principles of natural justice. Hence, this Court

is fully convinced that the matter needs to go back to the Assessing Officer to re-do the assessment once again on merits and in accordance with law.

7. Accordingly, all these writ petitions are allowed and the impugned orders are set aside. Consequently, the matter is remitted back to the Assessing Officer to issue fresh notice to the address given by the petitioner in their communication dated 27.10.2015 and thereafter, to pass the fresh orders of assessment on merits and in accordance with law, after giving due opportunity of hearing to the petitioner. The whole exercise shall be completed 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.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

The Assistant Commissioner (CT) (FAC)
Thirukkazhukundram Assessment Circle
No.42, Wahab Nagar
Thirukkazhukundram
Kancheepuram District.

+1 cc to The Special Government Pleader, Sr.No.73634
+1 cc to Mr.S.Ramanathan, Advocate Sr.No.73327

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RV(CO)
CSL/19.11.2018