IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2018

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.28752 of 2018
and
W.M.P.Nos.33585 & 33587 of 2018

Tvl. Habeeb Traders
represented by its Proprietor
No.295/3, Bazaar Street
Pernambut - 636 602. ... Petitioner

Vs.

The Commercial Tax Officer
Gudiyatham (West)
Gudiyatham - 635 801. ... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a WRIT OF CERTIORARI, calling for the records of the respondent in order dated 30.07.2015 in TIN No.33544343794/2014-15 and quash the same.

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

O R D E R

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

2. The petitioner is aggrieved against the order of assessment dated 30.07.2015 made in respect of the assessment year 2014-2015.

3. Heard both sides.

4. The learned counsel for the petitioner submitted that the issue involved in this case is covered by the decision of this Court made in WP.No.105 of 2016 etc., dated 01.03.2017, reported in JKM Graphics Solutions Vs. CTO, ([2017] 1999 VST 343). Therefore, he submitted that as the said issue of mis-match has to be dealt with by the Assessing Officer only in the manner in

which it has to be done as directed by this Court, this impugned order cannot be sustained.

5. On the other hand, the learned Government Advocate submitted that though the issue is covered by the said decision, it is to be noted that the petitioner has come before this Court only after 3 years and also without filing the reply to the notice of proposal.

6. Upon hearing both sides, it is seen that the issue involved in this case is with regard to mis-match and the said issue has already been dealt with by this Court and a detailed order has been passed in WP.No.105 of 2016 etc., dated 01.03.2017, reported in JKM Graphics Solutions Vs. CTO, ([2017] 1999 VST 343). Therefore, the Assessing Officer has to re-do the assessment only by applying the directions of this Court issued in the above said case. At the same time, this Court is of the view that such indulgence can be shown to the petitioner, by imposing some condition as the petitioner has not filed their reply to the notice of proposal and has also chosen to approach this Court belatedly.

7. Accordingly, this writ petition is allowed and the impugned order is set aside. Consequently, the matter is remitted back to the respondent under the following terms and conditions:

(a) The petitioner shall pay 25% of the tax liability and file their reply to the notice of proposal within a period of two weeks from the date of receipt of a copy of this order.

(b) On receipt of such payment of tax liability and the reply within the time stated supra, the respondent shall consider the objections and pass appropriate orders on merits and in accordance with law in the light of the directions/guidelines issued by this Court in WP.No.105 of 2016 etc., dated 01.03.2017, reported in JKM Graphics Solutions Vs. CTO, ([2017] 1999 VST 343), within a period of eight weeks thereafter.

No costs. Connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

mk

To

The Commercial Tax Officer
Gudiyatham (West)
Gudiyatham - 635 801.

+1cc to the Special Government Pleader Taxes, S.R.No. 76198

W.P.No.28752 of 2018

MG(CO)
GN(22/11/2018)