IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2018

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THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.Nos.29111, 29116, 29118 & 29121 of 2018
in
W.M.P.Nos.34041, 34044, 34048 & 34052 of 2018

Tvl.Ariya Hi-Tech Pipe & Component Private Limited
Represented by its Managing Director
M.P.A.Mahalingam
Plot No.J-1, Sipcot Industrial Estate
Covai Main Road,
Perundurai-638 052,
Erode District. ..Petitioner
(in all WPs)

vs.

The State Tax Officer
Office of the Assistant Commissioner (ST)
Perundurai Assessment Circle
Perundurai. ... Respondent
(in all WPs)

Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records on the files of the respondent in TIN:33812924099/2012-2013, 2013-2014, 2014-2015 and 2015-2016 dated 01.10.2018 respectively and quash the same as being without jurisdiction, authority of law and contrary to the principles of natural justice.

For Petitioner : Mr.R.Senniappan
(in all Wps)

For Respondent : Mrs.G.Dhana Madhri
Government Advocate (Tax)
(in all WPs)

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COMMON ORDER

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

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2. All these writ petitions are filed challenging the orders of assessment dated 01.10.2018 passed in respect of the assessment years 2012-2013 to 2015-2016.

3. It is contended by the learned counsel for the petitioner that the issue involved in these cases is mis-match, which has been considered 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), wherein certain directions/guidelines as to how the assessment orders have to be passed dealing with the mis-match issue. Therefore, he contended that the present orders passed without following those directions/guidelines cannot be sustained.

4. On the other hand, the learned Government Advocate for the respondent submitted that the petitioner is not entitled to raise the above objections, when admittedly, he has not chosen to file the objections to the notices of proposal.

5. The learned counsel for the petitioner submitted that the reason for not filing the reply was not deliberate or intentional and on the other hand, it was due to the reason that the person who received the said notices got admitted in the hospital in pursuant to road accident and therefore, the receipt of such notices came to the knowledge of the petitioner only after some lapse of time. Therefore, he contended that the petitioner could not make their reply in time.

6. There is no dispute to the fact that the issue involved in the orders of assessment is mis-match and the said issue has to be considered and decided only in accordance with 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). At the same time, the petitioner has not filed their reply to the notices of proposal. However, as the reason for not filing the reply has been explained in the affidavit filed in support of the writ petition by stating that one Rabinsan, who received the notices of proposal on 05.09.2018, met with an accident on the same day and got admitted in the hospital, this Court is of the view that some indulgence can be shown to the petitioner for making such reply, so that the Assessing Officer can pass fresh orders of assessment. However, such indulgence can be shown only by putting the petitioner on some terms.

7. Accordingly, all these writ petitions are allowed and the impugned orders of assessment are set aside. Consequently, the

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matter is remitted back to the Assessing Officer under the following terms and conditions:

(a) The petitioner shall pay 15% of the tax liability for each assessment year 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 reply and payment of 15% of the tax liability within the time stipulated supra, the Assessing Officer shall consider the same and pass fresh orders of assessment by following the directions/guidelines issued 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. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

mk

To

The State Tax Officer
Office of the Assistant Commissioner (ST)
Perundurai Assessment Circle
Perundurai.

+1cc to Mr.R.Senniappan, Advocate sr.76315
+1cc to the Special Government Pleader sr.76533

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srg 28/11/2018

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