

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2018

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.29181 of 2018
in
W.M.P.No.34108 of 2018

Tvl.Sri Durga Devi International
Represented by its Partner
P.Kandasamy

..Petitioner

vs.

The Assistant Commissioner (ST)
Tirupur (South) Assessment Circle
Tirupur.

... Respondent

Writ Petition 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 No: 33812325706/2016-2017 dated 17.10.2018 and quash the same as being without jurisdiction, authority of law and contrary to the principle laid down by this Honourable Court in the judgment reported in (2006) 146 STC 642 (Madras Granites (P) Ltd., Vs. Commercial Tax Officer, Arisipalayam Circle, Salem and another).

For Petitioner : Mr.R.Senniappan
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, the main writ petition is taken up for final disposal at the admission stage itself.

2. The present writ petition is filed challenging the proceedings of the respondent dated 17.10.2018, which is nothing but a notice of proposal.

3. This Court is not inclined to entertain this writ petition as the petitioner has to make their reply to the said

notice of proposal before the respondent.

4. The grievance of the petitioner before this Court is that the said notice of proposal was issued based on the inspection conducted by the Enforcement Wing Officers and therefore, the respondent may not apply his independent mind to the objections of the petitioner.

5. I do not think that the said apprehension is well founded since in the very notice itself it is made very clear in informing the petitioner that based on the defects pointed out by the Enforcement Wing Officers, the petitioner has to show cause. Needless to say that once the petitioner files the objections, the same shall be considered by the Assessing Officer independently and an order of assessment shall be passed on merits and in accordance with law. Therefore, I find that the present writ petition filed against the notice of proposal is not maintainable. Accordingly, this writ petition is dismissed, however, by granting liberty to the petitioner to file such reply to the notice of proposal within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

mk

To

The Assistant Commissioner (ST)
Tirupur (South) Assessment Circle
Tirupur.

+1cc to Mr.R.Senniappan, Advocate, S.R.No.76316

+1cc to the Spl Government Pleader, S.R.No.76532

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GSP (20/11/2018)