IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.11.2018

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

WP.Nos.29007 & 29010 of 2018
and
WMP.No.33912 of 2018

Pankaja Mills
Unit of National Textile Corporation Ltd.,
Represented by its General Manager
Sameer Agarwal,30, Pankaja Mills Road,
P.O.Box No.7109, Coimbatore - 641 045.
..Petitioner (in both WPs)

vs.

The Assistant Commissioner (CT)
Trichy Road Circle,
Coimbatore - 641 018. ... Respondent(in both WPs)

Writ Petition No.29007 of 2018 filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records on the files of the respondent herein in TIN.No.33871884808/2011-2012 dated 30.12.2016, quashing the same.

Writ Petition No.29010 of 2018 filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records on the files of the respondent herein in TIN.No.33871884808/2011-2012 dated 14.09.2018, quashing the same.

For Petitioner : Mr.S.P.Parthasarathy
(in all WPs)

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

C O M M O N O R D E R

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. The petitioner is aggrieved against the order of assessment passed in respect of the assessment year 2011-2012 dated 30.12.2016 and the consequential demand notice dated 14.09.2018.

3. Heard both sides.

4. The main grievance expressed by the petitioner before this Court is that the Assessing Officer has violated the principles of natural justice while passing the impugned order of assessment. In support of such contention, the notice of proposal dated 23.12.2016 and the impugned order of assessment dated 30.12.2016 are relied on, insofar as the relevant dates are concerned to contend that the Assessing Officer has chosen to pass the assessment order before the expiry of the period granted in the notice of proposal.

5. The learned Additional Government Pleader is not disputing the fact that the order of assessment was passed on 30.12.2016 and the notice of proposal was issued on 23.12.2016.

6. Perusal of the said notice indicates that the same was received by the petitioner only on 29.12.2016 and therefore, the petitioner had 7 days time to file their reply from 29.12.2016. However, the Assessing Officer has chosen to pass the order on the 7th day from the date of issuance of the notice without waiting for the petitioner to file their reply. Therefore, it is evident that the Assessing Officer has passed the impugned order of assessment in violation of principles of natural justice and the same cannot be sustained. Consequently, the demand notice impugned also cannot be sustained.

7. Accordingly, both these writ petitions are allowed and the impugned proceedings are set aside. Consequently, the matter is remitted back to the Assessing Officer to re-do the assessment once again on merits and in accordance with law, after following due procedure, by issuing notice of proposal and affording personal hearing to the petitioner. It is made clear that this Court is not expressing any view on the merits of matter. The whole exercise shall be done 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 petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

mk

To
The Assistant Commissioner (CT)
Trichy Road Circle,
Coimbatore - 641 018.

+1cc to Mr.N.INBARAJAN , Advocate SR.No. 75108
+1 CC TO GOVERNMENT PLEADER SR.NO. 76190

W.P.Nos.29007 & 29010 of 2018

ASK(27/11/2018)