IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.11.2018

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition Nos.29965 & 29969 of 2018
and
WMP.Nos.34966 & 34970 of 2018

Zuventus Health Care Limited
Represented by its Authorized Signatory
A.L.M.Avichi
No.2, Yemi street, Purasaiwakkam
Chennai-600 007. ... Petitioner
(in both WPs)

vs.

The Assistant Commissioner (ST)
Choolai Assessment Circle
No.10, Greams Road,
Chennai-600 006. ...Respondent
(in both WPs)

Writ petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the impugned proceedings of the respondent passed TIN No.33910482360/2013-2014 dated 01.10.2018 and TIN No.33910482360/2014-2015 dated 03.10.2018 respectfully and quash the same and further direct the respondent to re-do the assessment in accordance with law after finalizing the assessment on remand for the year 2015-2016 by providing sufficient opportunity to the petitioner.

For Petitioner : Mr.N.Murali
(in both WPs)

For Respondent : Mr.V.Haribabu
Additional Government Pleader
(in both WPs)

COMMON ORDER

Mr.V.Haribabu, learned Additional Government Pleader takes notice for the respondent. By consent of the parties, these writ petitions are taken up for final disposal at the admission stage itself.

2. These writ petitions are filed challenging the orders of assessment dated 01.10.2018 & 03.10.2018 for the assessment years 2013-2014 and 2014-2015 respectively.

3. It is contended by the learned counsel for the petitioner on the very same issue that has arisen in respect of the assessment year 2015-2016, an appeal was filed before the Appellate Authority and the Appellate Authority has remitted the matter back to the Assessing Officer, by his order dated 23.10.2018 and therefore, the present assessment orders cannot be sustained. Consequently, it is contended that the Assessing Officer has to re-do the assessment once again in respect of these two assessment years viz., 2013-2014 and 2014-2015 also along with the assessment in respect of assessment year 2015-2016.

4. Perusal of the order passed by the Appellate Authority dated 23.10.2018 in respect of the assessment year 2015-2016 would show that the Appellate Authority has not given any finding on the subject matter issue in favour of the petitioner for remitting the matter back to the Assessing Officer. On the other hand, the Appellate Authority has found fault with the Assessing Officer in not taking into account of the turnover to the tune of Rs.1,81,15,785/- while making the assessment, by specifically pointing out that the above said difference in turnover omitted for the assessment, was without any explanation from the side of the Assessing Officer, more particularly, when the Assessing Officer has totally rejected the explanation submitted by the petitioner. The Appellate Authority has also pointed out that it is not known as to how the Assessing Officer had adopted lesser taxable turnover for assessment when compared to the turnover proposed in the revision notice. Therefore, only for reconciling the figures, the order of assessment in respect of the assessment year 2015-2016 was set aside and the matter was remitted back to the Assessing Officer to re-do the assessment after reconsidering the difference in turnover pointed out in the order passed by the Appellate Authority. When such being the factual finding rendered by the Appellate Authority, I do not think that such finding is any way helping the petitioner in seeking for reconsideration of the subject matter assessment years 2013-2014 and 2014-2015.

5. Therefore, I find that the present writ petitions are totally misconceived based on the order passed by the Appellate Authority in respect of the assessment year 2015-2016. If the petitioner is aggrieved, it is open to him to challenge the present orders of assessment before the Appellate Authority, as this Court is not expressing any view on the merits of the matter. Accordingly, these writ petitions are disposed of, by granting liberty to the petitioner to file a statutory appeal

before the Appellate Authority within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

mk

Note:
The Registry is directed to return the original impugned orders to the petitioner forthwith.

To

The Assistant Commissioner (ST)
Choolai Assessment Circle
No.10, Greams Road,
Chennai-600 006.

+2cc to Mr.N.Murali, Advocate, S.R.No. 78139
+1cc to the Special Government Pleader(Taxes), S.R.No. 78449

WP. Nos.29965 & 29969 of 2018

CP(CO)
GN(30/11/2018)