IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2018

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

Writ Petition Nos.29975, 29978 & 29980 of 2018
and
W.M.P.Nos.34976, 34983, 34985 of 2018

M/s.Solak Impex Pvt. Ltd.,
Rep. by its Director,
No.7, Ponnappa Chetty Lane,
Chennai - 600 003. ... Petitioner in all the W.Ps.

vs.

Assistant Commissioner (CT),
Mooremarket Assessment Circle,
Chennai - 600 001. ... Respondent in all the W.Ps.

Writ Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the respondent and to quash the assessment proceedings in TIN.No. 33750361392/2012-13, TIN.No. 33750361392/2014-15 and TIN.No. 33750361392/2013-14 respectively dated 10.03.2015 as illegal and direct the respondent to passed fresh orders after providing an opportunity of personal hearing to the petitioner.

For Petitioner : Mr.C.Bakthasiromoni

For Respondent : Mr.V.Haribabu,
Additional Government Pleader(T)
Mrs.G.Dhana Madhri,
Government Advocate (Tax)

COMMON ORDER

The petitioner is aggrieved against the orders of assessment passed in respect of the assessment years 2012-13, 2013-14 & 2014-15.

2. Heard both sides.

3. The main objection raised by the petitioner against the impugned orders is that the same were issued before issuing notice of proposal. It is contended that the impugned orders were passed on 10.03.2015, whereas the pre-assessment notices were issued on 18.02.2016. Therefore, the petitioner contended that the impugned orders, having been passed prior to the issuance of notice of proposal, cannot be sustained in the eye of law.

4. On the other hand, the learned Government Advocate submitted that there is some error in putting the date in the impugned orders, while the fact remains that the same were passed on 10.03.2016 and not on 10.03.2015 as found in the impugned orders. Therefore, she contended that the petitioner having not filed any reply to the notice of proposal, is not entitled to any indulgence from this Court.

5. A careful perusal of the impugned orders of assessment would show that the Assessing Officer has not filled up the date of the order and the date of issuance of show cause notice. He had left those two columns blank and only at the bottom of the orders where he signed, the date was written as 10.03.2015. Therefore, this Court has to go by the date of signing of the orders as the date of the orders. While coming to the notices of proposal, it is seen that the same were signed on 16.02.2016. Here again, the Assessing Officer has not filled the date of the notice in the first page. Therefore, this Court finds that the Assessing Officer made the assessment in a careless manner without even showing the date of the order and date of issuance of notice in the impugned orders of assessment.

6. Based on the above facts and circumstances and without going into the other merits of the matter, this Court is inclined to allow these writ petitions and set aside the impugned orders of assessment. Accordingly, these Writ Petitions are allowed. The impugned orders of assessment are set aside and the matter is remitted back to the Assessing Officer to redo the assessment under the following terms and conditions.

(a) The petitioner shall treat the impugned orders of assessment as the notice of proposal and file their reply within a period of two weeks from the date of receipt of a copy of this order.

b) On receipt of such reply, the Assessing Officer shall consider the said objection and also give personal hearing to the petitioner and thereafter pass fresh orders of assessment on merits and in accordance with law within a period of ten weeks thereafter.

No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

vsi

To

The Assistant Commissioner (CT),
Mooremarket Assessment Circle,
Chennai – 600 001.

+1cc to the Government Pleader, S.R.No.80129

W.P.Nos.29975, 29978
& 29980 of 2018 of 2018

SS(CO)
GSP(13/12/2018)