IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 27.11.2018

CORAM
THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.30128 of 2018
and
W.M.P.No.35145 of 2018

Shapoorji Pallonji And Company Private Limited
Represented by its General Manager (Accounts & Admn.)
D.Sankaralingam (M Age 55 years)
No.40, SP Infocity, Module-4a, 2nd Floor, A Block
Kandanchavadi
Chennai-600 096. ... Petitioner

vs.

The Assistant Commissioner (ST),
Thiruvanmiyur Assessment Circle
Plot No.141, 1st Main Road,
Burma Colony,
Perungudi,
Chennai-600 096. ... Respondent

Writ Petition 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 33510762037/2015-16 dated 06.09.2018, quashing the same.

For Petitioner : Mr.KA Parthasarathy
for M/s.N.Inbarajan

For Respondent : Mrs.G.Dhana Madhri
Government Advocate

O R D E R

The petitioner is aggrieved against the order of assessment dated 06.09.2018 passed in respect of assessment year 2015-2016.

2. Heard both sides.

3. The only issue before the Assessing Officer is in respect of ITC claim made by the petitioner which according to the Assessing Officer, was made beyond the period of 90 days. A notice of proposal was issued on 20.12.2017 for which, the petitioner made a reply on 16.01.2018 and again, a second notice was issued on 09.05.2018 for which, the petitioner filed a reply on 16.05.2018. However, the Assessing Officer without considering the reply filed by the petitioner dated 16.05.2018

and only by considering the earlier reply dated 16.01.2018, has chosen to pass the assessment order.

4. Further, it is seen that in the impugned assessment order, though several details are given in respect of ITC claim the same appears to have not been indicated in the notice of proposal. However, as the Assessing Officer has passed the assessment order without considering the second reply dated 16.05.2018 and the said fact is also admitted by the learned Government Advocate, this Court is inclined to set aside the impugned order and remit the matter back to the Assessing Officer to consider the whole issue once again and pass fresh orders on merits and in accordance with law, after considering all the replies filed by the petitioner, also by providing a personal hearing to the petitioner.

5. Accordingly, this Writ Petition is allowed and the impugned order is set aside. Consequently, the matter is remitted back to the Assessing Officer to redo the assessment once again on merits and in accordance with law, after providing an opportunity of personal hearing to the petitioner. Such exercise shall be done by the respondent within a period of six weeks from the date of receipt of a copy of this order. It is made clear that this Court is not expressing any view on the merits of the matter, as it is for the Assessing Officer to consider and decide. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sni/mk

To

The Assistant Commissioner (ST),
Thiruvanmiyur Assessment Circle
Plot No.141, 1st Main Road,
Burma Colony,Perungudi,
Chennai-600 096.

+1cc to Mr.N.Inbarajan, Advocate, S.R.No.81074
+1cc to the Government Pleader, S.R.No.81479

W.P.No.30128 of 2018

NRI(CO)
rrs 14/12/2018