IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.12.2018

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.32778 of 2018
and
W.M.P.No.37989 of 2018

M/s. Vijay Electricals and Hardwares
represented by its Proprietor
Near bus stand,
Naripalli,
Harur. ...Petitioner

Vs.

State Tax Officer,
Harur Range,
Harur,
Dharmapuri. ...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records of the respondent pertaining to the orders dated 16.10.2018 in va.Vi.No.33463342022/2011-2012 and Va.Vi.No.33463342022/ 2012-2013 and consequential Notice dated 14.11.2018 in Na.Ka.No.1692/2018/ada.

For Petitioner : Mr.P.Valliappan

For Respondent : Mr.V.Haribabu,
Additional Government Pleader (Tax)

O R D E R

The petitioner is aggrieved against the orders of assessment dated 16.11.2018, passed in respect of the assessment years 2011-12 and 2012-13 and the consequential notice dated 14.11.2018.

2. Mr.V.Haribabu, learned Additional Government Pleader takes notice for the respondent and by consent of the parties, the main writ petition is taken up for final disposal.

3. The only objection raised against the orders of assessment is that the petitioner was not given sufficient

opportunity to defend their case before the Assessing Officer. However, perusal of the impugned order would show that such opportunity was given to the petitioner and however, they have not chosen to file their reply. In any event, as the only issue dealt with by the Assessing Officer is the mismatch issue and such issue has to be considered and the orders of assessment have to be passed only by following the guidelines and directions issued by this Court in JKM Graphics case reported in 2017(99) VST 343 , this Court is inclined to remit the matter back to the Assessing Officer for redoing the assessment, however, subject to the condition that the petitioner pays 15% of the tax liability, since they have not chosen to file their reply to the notice of proposal.

4. Accordingly, the writ petition is allowed and the impugned orders of assessment are set aside. Consequently, the matter is remitted back to the Assessing Officer in the following terms and conditions.

a) The petitioner shall pay 15% of the tax liability along with their reply for each assessment year within a period of two weeks from the date of receipt of a copy of this order.

b) On receipt of such reply and 15% tax liability, the Assessing Officer shall pass fresh orders of assessment on merits and in accordance with law, after giving due opportunity of hearing to the petitioner also by following the procedure/guidelines made in JKM Graphics Solutions P.Ltd. v. C.T.O.(Mad) reported in 2017(99) VST 343.

c) Such exercise shall be done by the Assessing Officer, within a period of eight weeks thereafter.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vsi
To

The State Tax Officer,
Harur Range,
Harur,
Dharmapuri.

+1cc to Mr.P.Valliappan, Advocate sr.no.86103
+1cc to Special Government Pleader(Taxes) sr.no.87099

W.P.No.32778 of 2018

nr 07/01/2019