IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 17.12.2018
CORAM
THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.Nos.33256, 33277, 33278, 33280, 33286 & 33291 of 2018
and
W.M.P.Nos.38609, 38620, 38632, 38618, 38641 & 38624 of 2018

Trichy Timber Mart
Represented by its Proprietor
Mr.K.Aswin Kumar
...Petitioner (in all WPs)
Vs
The Assistant Commissioner (CT)
Ariyalur Circle,
Ariyalur,
Perambalur District. ...Respondent (in all WPs)

Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the proceedings in TIN:33073604088/2011-2012, 2012-2013, 2013-2014, 2014-2015, 2015-2016 & 2016-2017 dated 28.09.2018 on the file of the respondent and to quash the same as illegal and without jurisdiction and to consequently, direct the respondent to conduct a fresh enquiry after affording a personal hearing to the petitioner.

For Petitioner : Mr.Sharath Chandran
(in all WPs)
For Respondent : Mr.M.Hariharan
Additional Government Pleader
(in all WPs)

C O M M O N O R D E R

Mr.M.Hariharan, learned Additional Government Pleader (Tax) 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. The petitioner is aggrieved against the orders of assessment dated 28.09.2018 passed in respect of assessment years 2011-2012 to 2016-2017.

3. The main grievance of the petitioner is that the impugned orders were passed not strictly by following the

principles of natural justice. It is contended by the petitioner that the Assessing Officer has passed the impugned orders of assessment, only on the reason that the petitioner has not attended personal hearing, without discussing any of the objections raised by the petitioner filed in response to the notice of proposal. It is further stated that non-appearance on the date of personal hearing was not willful, but due to the fact, that the petitioner's wife got admitted in the hospital suddenly on 15.04.2018, just 10 days before the date of personal hearing. Therefore, it is stated that the petitioner was reasonably prevented from appearing on the date of personal hearing.

4. The learned counsel for the petitioner submitted that had an opportunity of personal hearing was given to the petitioner on any subsequent date, the petitioner would have satisfied the authority that the proposals are not sustainable.

5. The learned Additional Government Pleader for the respondent, on the other hand, submitted that though the petitioner was given sufficient opportunity, however, they have not utilized the same and therefore, the Assessing Officer cannot be faulted. Even though he contended so, he is not disputing the fact that the Assessing Officer has passed the orders of assessment only on the reason that the petitioner has not appeared for personal hearing. In other words, the learned Additional Government Pleader is not disputing the fact that the merits of the objections filed by the petitioner has not been discussed by the Assessing Officer, while passing the impugned orders of assessment.

6. Heard both sides.

7. It is seen that in pursuant to the notices of proposal, the petitioner has sent a reply/objection, as is evident from the impugned orders themselves. It is also seen that the petitioner has raised certain material facts and circumstances, opposing the proposals, in the said reply. However, perusal of the impugned orders would show that none of the objections raised by the petitioner was considered by the Assessing Officer and on the other hand, the officer has concluded the assessment only on the reason that the petitioner did not appear on the date of personal hearing. The materials placed before this Court would show that the petitioner's wife got admitted in the hospital on 15.04.2018, just 10 days before personal hearing and therefore, there is every

reason to believe that the petitioner was reasonably prevented from making an effective appearance before the Assessing Officer to defend the assessment proceedings on the date of personal hearing.

8. Considering the above stated facts and circumstances, this Court is of the view that the matter may be remitted back to the Assessing Officer to redo the assessment once again, after considering the objections raised by the petitioner as well as giving opportunity of personal hearing to him. Accordingly, all these writ petitions are allowed and the impugned orders are set aside. Consequently, the matter is remitted back to the Assessing Officer to redo the assessment on merits and in accordance with law, after giving due opportunity of personal hearing to the petitioner. Such exercise shall be done by the Assessing Officer within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS vii)

//True Copy//

Sub Assistant Registrar

mk
To
The Assistant Commissioner (CT)
Ariyalur Circle,
Ariyalur,
Perambalur District.

+1 CC TO GOVERNMENT PLEADER SR.NO. 88031
+1cc to Mr.Govind Chandra Sekar , Advocate SR.No. 87367
+5cc to Mr.Govind Chandra Sekar , Advocate SR.No. 87367
(11/02/2019)

W.P.Nos.33256, 33277, 33278,
33280, 33286 & 33291 of 2018

A.SK(24/01/2019)