IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2018

CORAM:

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.33429 of 2018
and
W.M.P.No.38795 of 2018

Sri Mahalakshmi Traders
Represented by its Proprietor
Shankar Balasubramaniam
No.8, Kumarapuri 1st Street,
Mukasi Pidariyur, Chennimalai (P.O)
Perundurai, Erode - 638 051.

..Petitioner

Vs

The State Tax Officer
Perundurai. ...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the respondent in his proceedings in TIN No.33522925277/2013-2014 and quash the impugned order dated 20.11.2018 passed therein and further direct the respondent to afford an opportunity to the petitioner before passing final order.

For Petitioner : Mr.B.Raveendran

For Respondents: Mrs.G.Dhana Madhri
Government Advocate (Tax)

O R D E R

Mrs.G.Dhana Madhri, learned Government Advocate takes notice for the respondent. By consent of the parties, the main writ petition is taken up for final disposal at the admission stage itself.

2. The petitioner is aggrieved against the order of assessment dated 20.11.2018 passed in respect of assessment year 2013-2014.

3. The grievance of the petitioner before this Court is that the only issue involved in this case viz., mis-match issue, has not been dealt with by the Assessing Officer as per the guidelines/directions issued by this Court in JKM Graphics Solutions Vs. CTO, ([2017] 99 VST 343). Therefore, the petitioner seeks for indulgence of this Court for setting aside the impugned order and remitting the matter back to the Assessing Officer for redoing the assessment, by following the guidelines/directions stipulated in JKM Graphics case.

4. However, the perusal of the impugned order would show that the petitioner though received the notice of proposal, has not given any reply to the same.

5. Therefore, this Court is of the view that even though the issue involved in this case is covered by the decision of this Court reported in JKM Graphics Solutions Vs. CTO, ([2017] 99 VST 343), the matter needs to be remitted back to the Assessing Officer. However, such indulgence can be shown to the petitioner only by putting some terms.

6. Accordingly, this writ petition is allowed and the impugned order is set aside. Consequently, the matter is remitted back to the Assessing Officer for redoing the assessment under the following terms and conditions:

(a) The petitioner shall pay 15% of the tax liability along with reply 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% of tax liability within the time stipulated supra, the Assessing officer shall inform the date of personal hearing to the petitioner.

(c) On completion of such personal hearing, the Assessing Officer shall pass fresh orders of assessment, by following the procedures/guidelines issued by this Court in JKM Graphics Solutions Vs. CTO, ([2017] 99 VST 343).

(d) The whole exercise shall be done by the Assessing Officer within a period of twelve weeks from the date of receipt of a copy of this order.

`No costs. Consequently, connected miscellaneous petition is closed.

mk

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To
1. The State Tax Officer
Perundurai.

+1cc to Mr.B.Raveendran, Advocate, S.R.No.86936
+1cc to The Spl.Govt.Pleader (Taxes), vide, S.R.No.87500

W.P.No.33429 of 2018

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