IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.01.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.1025 of 2019
and
W.M.P.No.1146 of 2019

Shri Sakthi Weaving Mills Pvt Ltd.,
Represented by its Director P.Sakthibalan,
278, Kovai Main Road,
Kariyampalayam,
Annur - 641 653,
Coimbatore District. ...Petitioner

vs.

The Assistant Commissioner (CT),
Avinashi Assessment Circle,
Avinashi. ...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 in TIN:33502083037/2016-2017 dated 27.12.2018 and quash the same as being without jurisdiction and authority of law and contrary to the principles of natural justice.

For Petitioner : Mr.R.Senniappan

For Respondent : Mr.M.Hariharan
Additional Government Pleader (Tax)

O R D E R

Mr.M.Hariharan, learned Additional Government Pleader (Tax) takes notice for the respondent. By consent of the parties, this main writ petition is taken up for final disposal at the admission stage itself.

2. The petitioner is aggrieved against the order of the respondent dated 27.12.2018 passed in respect of assessment year 2016-2017.

3. Heard both sides.

4. The impugned order is undoubtedly an order of assessment. The grievance of the petitioner before this Court is that the said order was passed without issuing a notice of proposal and affording an opportunity to the petitioner to defend the claim of the Revenue.

5. Perusal of the impugned order would show that the same came to be passed pursuant to an inspection conducted by the Enforcement Officials and without issuing any further notice of proposal to the petitioner.

6. The learned Additional Government Pleader appearing for the respondent is not disputing the fact that the impugned order was not preceded by any notice of proposal.

7. Therefore, it is evident that the impugned order passed in violation of principles of natural justice cannot be sustained, even though, the same came to be passed based on the report submitted by the Enforcement Officials. Therefore, this Court is inclined to interfere with the impugned order by setting aside the same, however, by remitting the matter back to the Assessing Officer to redo the assessment after issuing the notice of proposal and hearing the petitioner.

8. 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 after issuing a notice of proposal to the petitioner and also by giving them an opportunity of personal hearing. Needless to say that the Assessing Officer has to make the proposal and consider the objections of the petitioner, on such proposal independently and thereafter pass fresh order of assessment on merits and in accordance with law with his independent application of mind. The whole 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, the connected miscellaneous petition is closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

sni/mk

To

The Assistant Commissioner (CT),
Avinashi Assessment Circle,
Avinashi.

+1 cc to Mr.R.senniappan, Advocate Sr.No.4687
+1 cc to The Government Pleader, Sr.No.4766

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CSL/23.01.2019