IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2019

CORAM :

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. Nos.1016 & 1018 of 2019
and
W.M.P.Nos.1136 & 1138 of 2019

WOOD 'N' CRAFT
Represented by its Proprietrix,
S.Gowthami,
337 & 338, Variety Hall Road,
Coimbatore 641 001. ... Petitioner in both petitions

Vs.

The State Tax Officer,
(The Commercial Tax Officer),
N.H.Road Circle,
Coimbatore. ... Respondent in both petitions

PRAYERS:- Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records on the files of the respondent herein in REF: TN 33981901868/2013-14 and 2014-15 respectively, dated 04.12.2018 and quashing the same.

For Petitioner : Mr.K.Narayanan
(in both Writ Petitions)

For Respondent : Mrs.G.Dhanamadari
Government Advocate (T)
(in both Writ Petitions)

C O M M O N O R D E R

Ms.Dhanamadhri, Learned Government Advocate states that she does not wish to file a counter and makes her submissions based on the instructions received.

2.By consent of both learned counsel and upon hearing detailed submissions advanced by them, this Court takes up and disposes the Writ Petitions finally even at the stage of admission.

3.The learned counsel for the petitioner cites a decision of this Court in W.P.No.2980 of 2019 dated 01.02.2019 in support of the prayer in the Writ Petition. The aforesaid writ petition challenged an assessment for the period 2015-16 and admittedly the issues arising therefrom are identical to those arising in the present case, where the impugned orders relate to the periods 2013-14 and 2014-15. A learned single Judge of this Court upon consideration of the issues has set aside the assessment and remitted the matter back to the assessing officer for being redone. Relevant portion of the order is as follows:

> '7. Perusal of the impugned order would show that the Assessing Officer placed his reliance on the report submitted by the Enforcement Wing Officers for concluding the assessment. It is seen that in pursuant to the notice of proposal, the petitioner through their communication dated 12.12.2018 sought 30 days time for filing their reply. The receipt of such communication is admitted by the Assessing Officer in the impugned order itself. However, it is stated that through the communication dated 13.12.2018, the assesee was informed to file such reply on or before 02.01.2019. The learned counsel for the petitioner denies the above contention and states that no such communication was served on the petitioner. In any event, as it is an admitted position that the assessment order was passed based on the report submitted by the Enforcement Wing Officers and not after providing an opportunity of personal hearing, this Court is of the view that one more opportunity can be given to the petitioner so as to enable them to file their objections to the notice of proposal so as to enable the Assessing Officer to pass the order of assessment on merits and in accordance with law, after providing personal hearing to the petitioner as well.
>
> 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 re-do the assessment under the following terms and conditions:
>
> (a) The petitioner shall send a reply to the notice of proposal within a period of two weeks from the date of receipt of a copy of this order.
>
> (b) On receipt of such reply, the Assessing Officer shall fix the date of personal hearing.
>
> (c) On completion of such personal hearing, the Assessing Officer shall pass fresh order of assessment on merits and in accordance with law, within a period of four weeks thereafter.
>
> It is made clear that this Court is not expressing any view on the merits of the assessment.'

4.In the light of the aforesaid and bearing in mind that the issue arising in all the Writ Petitions are identical, these writ petitions are allowed on similar lines as the earlier Writ

Petition. The orders impugned before me for the years 2013-14 and 214-15 are set aside. The assessing authority will re-do de novo the assessment in terms of the directions above which are reiterated below:

(a) The petitioner shall send a reply to the notice of proposal within a period of two weeks from the date of receipt of a copy of this order.

(b) On receipt of such reply, the Assessing Officer shall fix the date of personal hearing.

(c) On completion of such personal hearing, the Assessing Officer shall pass fresh order of assessment on merits and in accordance with law, within a period of four weeks thereafter.

5.These Writ Petitions are disposed of in the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-III)

//True copy//

Sub Assistant Registrar

sai

To

The State Tax Officer,
(The Commercial Tax Officer),
N.H.Road Circle,
Coimbatore.

+1cc to Mr.N.Inbarajan, Advocate SR.No.28773

+1cc to Special Government Pleader (Taxes) SR.No.28971

W.P. Nos.1016 & 1018 of 2019

SJ(CO)
GMY(29/04/2019)