In the High Court of Judicature at Madras

Dated : 13.2.2019

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM
and
The Honourable Mrs.Justice V.BHAVANI SUBBAROYAN

Writ Appeal Nos.365 & 376 to 378 of 2019 &
CMP.Nos.3599, 3632, 3633 and 3641 of 2019

Tvl.Shree Ayyappa Jewellery
Pvt. Ltd., rep.by its Director
Mr.S.V.Ramesh ...Appellant in all the WAs

Vs

The State Tax Officer, Pondy Bazaar
Assessment Circle, Chennai-28. ...Respondent in all the WAs

APPEALS under Clause 15 of the Letters Patent against the common order dated 26.11.2018 made in W.P.Nos.30803, 30806, 30808 and 30810 of 2018.

Prayer in W.P.Nos.30803, 30806, 30808 and 30810 of 2018: Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the Respondent vide his order of assessment in TIN 33821522589/2012/2013, 2013-2014, 2014-2015 and 2015-2016 dated 28.09.2018 and quash the same as illegal, unconstitutional for having been passed in violation of principles of natural justice and as being contrary to that of the principles laid down by this Court in the case of Tvl.Salem Hotel Sri Saravana Bhavan (P) Ltd., Vs. The Assistant Commissioner (CT) Arisipalayam Assessment Circle, Salem in WP.No.35815 of 2016 dated 21.10.2016 and in WP No.105/2016 dated 01/03/2017 in the case of M/s.Graphics Solutions (P) Ltd., Vs.The Commercial Tax Office, Veperry Assessment circle, Chenai, in WP.No.30808 and 30810/2018, and further direct the respondent to pass fresh orders in accordance with law after granting the petitioner with an opportunity of personal hearing.

For Appellant : Mr.D.Ashok Kumar for Mr.C.Kathiravan

For Respondent : Mr.Mohammed Shaffiq, SGP assisted by Mr.Hariharan, AGP

COMMON JUDGMENT

(Judgment was delivered by T.S.SIVAGNANAM,J)

We have heard Mr.D.Ashok Kumar, learned counsel appearing on behalf of Mr.C.Kathiravan, learned counsel on record for the appellant and Mr.Mohammed Shaffiq, learned Special Government Pleader assisted by Mr.Hariharan, learned Additional Government Pleader accepting notice for the respondent.

2. The appellant - writ petitioner has challenged the common order dated 26.11.2018 passed in W.P.Nos.30803, 30806, 30808 and 30810 of 2018.

3. We are surprised to find as to why the appellant filed these appeals since the learned Single Judge allowed the said writ petitions filed by the appellant.

4. On a query posed by us, the learned counsel for the appellant has responded by submitting that the appellant is facing severe financial crunch and that they are only aggrieved by that portion of the order in paragraph 11(a) directing the appellant to pay 15% of the tax liability for each of the assessment years.

5. The learned counsel for the appellant pleads that some indulgence may be shown by this Court and that the appellant will cooperate in the assessment proceedings by responding to the notices directed to be issued by the Assessing Officer.

6. Considering the fact that there are four assessment orders, we are of the view that some indulgence can be granted to the appellant since, admittedly, no show cause notice was issued before levying penalty. Furthermore, the revision of assessment is on account of the details culled out from the official website of the Department and there is an allegation of mismatch between the returns filed by the appellant/dealer and that of the other end dealer.

7. Therefore, we dispose of these appeals with a slight modification in paragraph 11(a) of the impugned order by directing the appellant to pay 10% of the tax liability for each

of the assessment years within a period of three weeks from the date of receipt of a copy of this judgment. On compliance of the same, the parties shall abide by the directions issued by the learned Single Judge in paragraphs 11(b) to 11(g) of the impugned order. It is needless to state that the time stipulated in the impugned order shall stand extended since we granted three weeks' time to the appellant to pay 10% of the tax liability for each of the assessment years. No costs. Consequently, the connected CMPs are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

RS

To

The State Tax Officer,
Pondy Bazaar Assessment Circle,
Chennai-28.

+4 ccs to Mr.C.Kathiravan, Advocate, S.R.No.12604 to 12607

+1 cc to the Special Government Pleader, S.R.No.13687

WA.Nos.365 & 376 to 378 of 2019 &
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of 2019

AK(CO)
SSM(08/03/2019).