IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.01.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.Nos.2064 & 2070 of 2019
and
W.M.P.Nos.2315 & 2317 of 2019

Tvl. Ambika Wood Industries (P) Ltd,
Represented by its Director,
Mr.Ajay K. Rangani
No.125, G.S.T Road,
Chrompet, Chennai-44.
Now at: S.No.93/2B, 200 Feet Radial Road,
Old Pallavaram, Chennai-117. ...Petitioner in both WPs

Vs.

1. The Assistant Commissioner [CT],
   Tambaram II Assessment Circle,
   Chennai-44.

2. The Assistant Commissioner [ST] [FAC],
   Chrompet Assessment Circle,
   No.117, Station Road,
   Radha Nagar, Chennai-44.

...Respondents in both WPs

Writ Petitions 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 2nd respondent in TIN/33090943270/2010-2011 and TIN/33090943270/2009-2010 dated 04.10.20018 and quash the same being illegal, invalid, without jurisdiction and violated the principles of natural justice.

For Petitioner : Mr.D.Vijayakumar (in both WPs)
For Respondents : Mr.M.Hariharan Additional Government Pleader (in both WPs)

COMMON ORDER

Mr.M.Hariharan, learned Additional Government Pleader takes notice for the respondents. By consent of the parties, these main writ petitions are taken up for final disposal at the admission stage itself.

2. These writ petitions are filed challenging the revised assessment orders dated 04.10.2018 passed in respect of assessment years 2009-2010 and 2010-2011.

3. Heard both sides.

4. The main grievance of the petitioner before this Court is that the Assessing Officer has framed the assessment by taking into consideration of only three months viz., March, April and June, 2010 for passing the impugned assessment orders without taking into consideration of the entire period of 12 months.

5. It is further contended that when the matter was earlier gone up to the stage of filing an appeal before the first Appellate Authority, who in turn by order dated 18.07.2011, remitted the matter back to the Assessing Officer, after noticing that the Assessing Officer while determining the sale value of timber has taken into account the imported turnover of timber that covers part of two assessment years and therefore, it requires modification with reference to records, the Assessing Officer once again committed the very same mistake and passed the impugned assessment order.

6. The learned counsel for the petitioner invited this Court's attention to the order passed by the Appellate Authority as well as the impugned orders in support of the above contention.

7. Perusal of the impugned orders on the face of it, would show that the same was passed in total non-application of mind, since both the orders though, referable to two different assessment years, have in fact referred to the same figures of transaction. Thus, it shows that the assessment orders were passed without application of mind. It is also seen that the Assessing Officer has taken note of the transactions with regard to 3 months period alone, even though, that was noted by the Appellate Authority as not correct.

8. The learned Additional Government Pleader appearing for the respondents fairly submitted that the matter needs to go back to the Assessing Officer to redo the assessment once again.

9. Considering the above stated facts and circumstances and considering the very fact that the Assessing Officer has taken into consideration the transactions relevant only to 3 months period and not to the entire 12 months and further, considering the fact that the Assessing Officer has referred to the quantum of transaction for both the assessment years as one and the same, this Court is of the view that the impugned orders have to be set aside and the matter needs to be remitted back to the Assessing Officer for re-doing the assessment.

10. Accordingly, both these writ petitions are allowed and the impugned orders are set aside. Consequently, the matter is remitted back to the Assessing Officer to re-do the assessment after considering the objections raised by the petitioner. The Assessing Officer shall also afford an opportunity of personal hearing to the petitioner before concluding the assessment. 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 petitions are closed.

Sd/-
Deputy Registrar(CS)

//True Copy//

Sub Assistant Registrar

sni/mk

To

1. The Assistant Commissioner [CT],
Tambaram II Assessment Circle,
Chennai-44.

2. The Assistant Commissioner [ST] [FAC],
Chrompet Assessment Circle,
No.117, Station Road,
Radha Nagar, Chennai-44.

+1cc to Mr.D.Vijayakumar,Advocate SR.No. 6438
+1 CC TO GOVERNMENT PLEADER SR.NO. 7236

W.P.No.2064 & 2070 of 2019

A.SK(19/02/2019)