IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2019

CORAM

THE HONOURNABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.Nos.2050, 2054 & 2059 of 2019
and
W.M.P.Nos.2305, 2307 & 2311 of 2019

Edac Engineering Limited
represented by its Assistant
General Manager(Finance)
N.Venkatachalam,
88, Mount Road,
Guindy,
Chennai - 600 032. ...Petitioner in all the W.Ps.

Vs.

The Assistant Commissioner (ST)
Saidapet Assessment Circle,
CT Annexure Building,
5th Floor, No.1, Greams Road,
Chennai - 600 006. ...Respondent in all the W.Ps.

Writ Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records on the files of the respondent herein in TIN 33346220369/2006-07, TIN 33346220369/2007-08 and TIN 33346220369/2008-09 dated 09.11.2018 and quash the same.

For Petitioner : Mr.K.A.Parthasarathy
for Mr.N.Inbarajan

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

COMMON ORDER

The petitioner is aggrieved against the orders of assessment passed individually relevant to the assessment years 2006-07 to 2008-09.

2. Heard both sides.

3. Challenge made in these writ petitions against the impugned orders is mainly on the ground of violation of principle of natural justice and non-application of mind by the Assessing Authority on the objections filed by the petitioner. It is seen that, earlier, orders of assessment for the very same assessment years were passed on 15.11.2010 and they were put to challenge before this Court in W.P.Nos.28517 to 28519 of 2010, on the ground that the assessment orders were passed without giving proper and sufficient opportunity to the petitioner to place their documents. Accordingly, this Court allowed those writ petitions on 28.03.2011 and set aside the orders of assessment by remitting the matter back to the Assessing Officer to redo the assessment on merits and in accordance with law by granting time to the petitioner to produce all the necessary documents to substantiate their claim. Accordingly, the petitioner, through their communication dated 12.04.2011, furnished those documents to the Assessing Officer. It is seen that the same were acknowledged at the office of the Assessing Authority on 12.04.2011. Thereafter, a revised notice dated 14.11.2016 was issued for each assessment year wherein the Assessing Officer has admitted that in pursuant to the order passed by the High Court, the dealers filed four documents for verification. Thereafter, the petitioner, in response to such revised notice sent their reply on 01.12.2016. The same was acknowledged at the office of the Assessing Authority on 02.12.2016. However, the impugned orders were passed by observing that the petitioner neither filed any reply nor represented before the Assessing Authority, despite personal hearing notice dated 16.03.2018. It is specifically contended by the petitioner that no such personal hearing notice was ever served on the petitioner.

4. Perusal of the above facts and circumstances would show that the Assessing Authority has mechanically passed the orders impugned in these writ petitions without reference to the earlier reply filed by the petitioner on 12.04.2011 enclosing certain documents as well as the subsequent reply filed on 01.12.2016, filed in response to the revised notice dated 14.11.2016. Though it is stated that notice of personal hearing was issued on the petitioner, the service of the same is not established before this Court. Therefore, this Court has to hold that an opportunity of personal hearing was not given to the petitioner. In any event, as the replies filed by the petitioner, though acknowledged, were not considered, while passing the present orders of assessment, this Court is of the view that such non-consideration would amount to violation of principles of natural justice. Therefore, this Court is inclined to interfere with the impugned orders for the purpose of remitting the matter back to the Assessing Officer to redo the assessment once again on merits and in accordance with law.

5. Accordingly, these writ petitions are allowed and the impugned orders are set aside. Consequently, the matter is remitted back to the Assessing Officer to redo the assessment on merits and in accordance with law after considering the objections already filed by the petitioner and also after providing an opportunity of personal hearing to them. The whole exercise shall be done by the Assessing Officer within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

vsi

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To
The Assistant Commissioner (ST)
Saidapet Assessment Circle,
CT Annexure Building,
5th Floor, No.1, Greams Road,
Chennai - 600 006.

+1cc to Mr.N.Inbarajan, Advocate, SR.No.81649/19
+1cc to Special Govt.Pleader (Taxes) Vide Sr.No.82026/19

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Kak(30/10/2019)