IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 25.07.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.34325 of 2006
and
M.P.No.1 of 2006

M/s.Siva Textiles,
No.84, Manickapuram Road,
Palladam. ...Petitioner

Vs

The Deputy Commercial Tax Officer,
Palladam Assessment Circle,
Palladam. ...Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorari, to call for the records of the proceedings of the respondent in TNGST:6240230/2002-03 and quash the proceedings in re-assessment dated 10.06.2005 passed therein.

For Petitioner : Mr.B.Raveendran

For Respondent : Mr.V.Haribabu, AGP

O R D E R

It is the submission of the learned counsel for the petitioner that the assessment order based on the further verification of the departmental officials alone, cannot be sustained, since the Assessing Officer being a Quasi Judicial Authority has to independently assess the basis on the objections raised by the assessee and cannot be guided by the directions of the department officials.

2. In the instant case, when the pre-assessment notice was issued on 31.03.2005, the petitioner herein had not raised his objections and hence, the consequential assessment order came to be passed.

3. The learned counsel for the petitioner would submit that since the law has now been settled to the effect that the Assessing Officer requires to independently consider the

objections and should not be guided by the directions of the superior department officials, a lenient view may be extended to them in order to give them an opportunity to raise their objections before the Assessing Officer.

4. Taking into consideration the various decisions rendered by this Court in this context, this Court intends to give such an opportunity to the petitioner.

5. In the light of the above observations, the assessment order dated 10.06.2005, is set aside and the matter is remanded back to the respondent herein for a fresh consideration, after giving due opportunity of personal hearing to the petitioner to raise his objections. The petitioner herein shall give his objections preferably within a period of 15 days from the date of receipt of copy of this order and thereafter, the respondent shall pass final orders, within a period of 3 months therefrom.

6. Accordingly, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

hvk

To

The Deputy Commercial Tax Officer,
Palladam Assessment Circle,
Palladam.

+1 cc to the Special Government Pleader, S.R.No.64268

W.P.No.34325 of 2006
and
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AD(CO)
SSM(28/08/2019)