IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.07.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

W.P.Nos. 20211 & 20212 of 2011
and
M.P.Nos. 1 & 1 of 2011

Lux Flavours
Represented by its Managing Partner,
V.Anantha Ramakrishnan,
No.12, Durai Raj Street,
Palavanthangal,
Chennai - 600114. ...Petitioner in both WPs

Vs

The Assistant Commissioner (CT),
Additional Velacherry Assessment Circle,
Nanganallur,
Chennai - 600061. ...Respondent in both WPs

Prayer in W.P.No.20211 of 2011 : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records on the files of the Respondent herein in his CST 45341/2005-06 dated 16.08.2011 and to quash the notice 16.08.2011 with the direction to the Respondent herein to rework the levy of interest after taking the due date of payment in accordance with law.

Prayer in W.P.No.20212 of 2011 : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records on the files of the Respondent herein in his CST 45341/2005-06 dated 15.09.2008 and to quash the assessment order in CST 45341/2005-06 dated 15.09.2008 with the direction to the Respondent herein to consider the application dated 06.04.2009 and 10.12.2009 by reopening the assessment for the year CST 2005-06.

For Petitioner : Mr.K.Narayanan
(in both WPs) for Mr.N.Inbarajan

For Respondent : Mr.Mohammed Shaffiq
(in both WPs) Special Government Pleader

COMMON ORDER

The main grievance of the petitioner is that there was a belated filing of the C Forms, to which the Assessment Order came to be passed.

2. According to the learned counsel appearing for the petitioner, if the C Forms were properly appreciated, the levy of interest would not have been arisen. It was also his submission that there is an error in computing the period of delay and therefore, if at all any interest is being paid, the interest arrived at by the respondent, is incorrect.

3. It is seen that in pursuant to the pre-assessment notice dated 06.09.2007, the petitioner had sought time to file and furnish the C Forms through his objection dated 09.11.2007 and 25.04.2008. After such consistent objections, the impugned Assessment Order dated 15.09.2008 came to be passed. It is now represented that after the Assessment Order was passed, the petitioner had submitted the C Forms for all the relevant periods, by way of enclosures such as C Forms and CCC dated 06.04.2009 and 10.12.2009.

4. In my view, the case of the petitioner would be purely liberal and the delay in filing the C Forms would be condoned.

5. In the light of the above observations, it would be appropriate to remand the matter back to the respondent for fresh assessment, considering all the C Forms submitted by the petitioner herein. Accordingly, the matter is remanded back to the respondent for fresh consideration. The petitioner is also at liberty to give representation in favour of the copies of the C Forms, already submitted before the respondent herein, within a period of fifteen days from the date of receipt of a copy of this order. On receipt of such representation along with enclosures, the respondent shall reassess the terms afresh, after giving due opportunity to the petitioner herein, which exercise shall be completed within a period of two months thereafter. Accordingly, these Writ Petitions stand disposed of. Consequently, the connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

sni

To

The Assistant Commissioner (CT),
Additional Velacherry Assessment Circle,
Nanganallur,
Chennai - 600061.

+1cc to M/s.N.Inbarajan, Advocate Sr.57175
+1cc to the Special Government Pleader Sr.57678

W.P.Nos. 20211 & 20212 of 2011

bp[co]
srg 13/09/2019