IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.03.2019

CORAM

THE HONOURABLE Dr.JUSTICE ANITA SUMANTH

WP. No.3977 of 2019
and
WmP. Nos.4422 & 4424 of 2019

M/s. Building Mart,
rep. by its Proprietor,
R.Ravichandran ... Petitioner

Vs.

The Assistant Commissioner (ST),
Vellore Rural Assessment Circle,
Vellore ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorari to call for the records of the respondent in his proceedings in TIN 33904324778/2016-17 dated 23.03.2018 and quash the same as illegal.

For Petitioner : Mr.S.Ramanathan

For Respondent : Ms.G.Dhanamadri,
Government Advocate (Taxes)

ORDER

The Writ Petition challenges an order of assessment dated 23.03.2018 for the period 2017-18.

2. Ms.G.Dhanamadri, learned Government Advocate (Taxes) has taken notice for the respondent and has also filed a counter.

3. Mr.Ramanathan, learned counsel for the petitioner argues that the impugned order is patently erroneous, there is gross violation of the principles of the natural justice and the opening cost has been adopted at a figure of Rs.2,30,20,888/- whereas in the stock tally statement, filed before the officer, the opening stock is only Rs.1,62,40,680/-. The last point is a factual issue, which I am not inclined to advert to in a Writ Petition.

4. As regards the contention that no opportunity has been granted prior to completion of assessment, the impugned proceedings refer to a notice dated 16.11.2017 that, acceding to the petitioner has not been received by it.

5. According to the respondent, notice dated 16.11.2017 has been served on 28.11.2017 upon the petitioner and no objection has been filed by it. The officer thus had no option but to proceed with the assessment and confirm the proposal in the show cause notice.

6. A copy of notice dated 30.11.2017 is placed on record and contains a signature which prima facie appears to be the signature of the sole proprietor/writ petitioner when compared with the affidavit available on file. The learned counsel for the petitioner however maintains, on instructions, that the notice has not been received by the petitioner.

7. Be that as it may, in the interests of justice and bearing in mind the position that the notice dated 16.11.2017, even if received, only called upon the petitioner to file objections and avail personal hearing within 15 days, without stipulating a specific date and time. I am inclined to offer one more opportunity to the petitioner to make its submission in support of its claims, upon condition that the petitioner pay 20% of the disputed tax within a period of four (4) weeks from today.

8. The petitioner will appear before the respondent on 04.04.2019 at 2.30 p.m and the respondent will take the matter up for assessment and pass orders after affording adequate opportunity to the petitioner, within a period of three (3) weeks from the date of conclusion of personal hearing.

9. This Writ Petition is disposed of in the above terms. Connected miscellaneous petitions are also closed. No order as to costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

rkp

To:

The Assistant Commissioner (ST),
Vellore Rural Assessment Circle,
Vellore.

+1cc to the Special Government Pleader Sr.26514
+1cc to Mr.S.Ramanathan, Advocate Sr.25554

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ssv[co]
srg 24/05/2019