

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.11.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.8401 of 2019

and

W.M.P.Nos.8929 & 8930 of 2019

M/s. Sri Rajaganapathi Textile India (P) Ltd.,
Represented by its Managing Director
Mr.A.Senthil Kumar
40/33-A, Kongunagar 3rd Street,
Kongunagar,
Tirupur - 641607.

...Petitioner

Vs.

1. The Assistant Commissioner (CT) (FAC)
Kongunagar Assessment Circle,
Tirupur - 641601.

2. The Assistant Commissioner (ST),
Kongunagar Assessment Circle,
Tirupur - 641601.

3. The Branch Manager,
Federal Bank,
PB No.419, Industrial Finance Branch,
Deepa Complex (Annex),
132-A, Mangalam Road,
Tirupur - 641604.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the impugned proceedings of the first respondent in TIN No. : 33782444499/2014-2015 dated 17.07.2017 and to quash the same as passed without considering the objections filed by the petitioner on 11.04.2017 and so passed in contrary to the principles of natural justice and further to direct the first and second respondents to pass a fresh assessment order after considering the objections filed by the petitioner on 11.04.2017 and the application for rectification filed on 28.11.2017 after granting reasonable opportunity to the petitioner including personal hearing.

For Petitioner : Mr.P.Rajkumar
For Respondents : Mr.M.Hariharan [R1 & R2]
Additional Government Pleader (Taxes)

ORDER

The petitioner is aggrieved against the order of assessment dated 17.07.2017 passed in respect of Assessment Year 2014-2015.

2. Heard both sides.

3. The main grievance of the petitioner is that the impugned order was passed in violation of principles of natural justice, since the Assessing Officer has not considered the objections filed by the petitioner, however, by observing as if no such objection was filed. It is the specific case of the petitioner that on receipt of notice of proposal dated 28.11.2016, the petitioner filed their objections on 11.04.2017 and the same was acknowledged at the office of the Assessing Officer on the same day.

4. The learned Additional Government Pleader (Taxes) appearing for the first and second respondents, based on instructions submitted that on verification of the file, it is found that the said objection filed by the petitioner on 11.04.2017, is available and therefore, the Assessing Officer will consider the same and pass fresh orders.

5. Perusal of the impugned order would show that the Assessing Officer has concluded the assessment, simply by observing that the petitioner has not filed any objection to the notice of proposal but the fact remains otherwise, as discussed supra. Therefore, this Court is inclined to set aside the impugned order and remit the matter back to the Assessing Officer for redoing the assessment.

6. Accordingly, this writ petition is allowed and the impugned order is set aside. Consequently, the matter is remitted back to the Assessing Officer for redoing the assessment after considering objections filed by the petitioner and also by giving an opportunity of personal hearing to the petitioner. Such order to be passed on merits and in accordance with law, shall be made within a period of six weeks from the date of receipt of a copy of this order. Since this Court has set aside the order of assessment and remitted the matter back to the Assessing Officer, the attachment made against the petitioner through proceedings dated 14.02.2019 attaching the Bank Account maintained by the petitioner at

Federal Bank, Tiruppur, stands lifted, however, with liberty to the Revenue to work out such remedy after a fresh order of assessment is passed, as directed supra. No costs. Connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Assistant Commissioner (CT) (FAC)
Kongunagar Assessment Circle,
Tirupur - 641601.
2. The Assistant Commissioner (ST),
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Tirupur - 641601.
3. The Branch Manager,
Federal Bank,
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Deepa Complex (Annex),
132-A, Mangalam Road,
Tirupur - 641604.

+1 cc to M/s.P.Rajkumar,Advocate Sr.No. 91854

+1 cc to The Special Government Pleader Sr.No.92203

AKM/13.11.19/3P-6C /

W.P.No.8401 of 2019