IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.10.2019

CORAM

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.Nos.8426, 8429, 8433, 8436, 8438 & 8442 of 2019
and
W.M.P.Nos.8945, 8949, 8955, 8958, 8962 & 8965 of 2019

J.P.G.Housing & Projects (P) Ltd.,
Represented by its Managing Director
M.J.Gopinathan
5/1137/5-A, Ganga Nagar,
Poyampalayam,
P.N.Road,
Thottipalayam,
Tiruppur – 641603. ... Petitioner in all WPs

Vs.

The Assistant Commissioner (ST),
Avinashi Assessment Circle,
Avinashi. ... Respondent in all WPs

Common Prayer : Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the respondent in TIN No. : 33962084336/2010-2011, TIN No. : 33962084336/2011-2012, TIN No. : 33962084336/2012-2013, TIN No. : 33962084336/2013-2014, TIN No. : 33962084336/2014-2015 and TIN No.: 33962084336/2015-2016 and quash the order dated 28.02.2019 passed therein and further direct the respondent to consider the objections filed by the petitioner before passing final order.

For Petitioner (in all WPs) : Mr.B.Raveendran

For Respondent (in all WPs) : Mrs.G.Dhana Madhri Government Advocate

COMMON ORDER

These writ petitions are filed challenging the order revising the assessment relevant to Assessment Years 2010-11 to 2015-16. All the impugned orders were made on 28.02.2019.

2. The main grievance of the petitioner is that the Assessing Officer has not considered the document filed along with the objections dated 21.01.2019 while passing the impugned orders. Therefore, it is contended that finding of the Assessing Officer as though, the petitioner did not produce necessary documents, is factually incorrect. In support of the contention that they filed the documents along with the objections dated 21.01.2019, an additional affidavit is filed before this Court today, stating that the documents referred to in the additional affidavit for the relevant Assessment Years were filed along with the reply. However, the Assessing Officer found in the impugned order that though the petitioner filed detailed objection on 21.01.2019, however, had not produced their accounts, labour charges and other charges as well as the monthly returns.

3. The learned Government Advocate for the respondent on perusal of the file submitted that even though the objection filed by the petitioner dated 21.01.2019 is available in the file, no documents said to have been filed along with the said objections are available in the file.

4. Perusal of the impugned order would show that the petitioner has filed a detailed reply on 21.01.2019 and the same is extracted by the Assessing Officer in the impugned order. The dispute is with regard to the filing of the documents in support of such objections. While the petitioner claims that the documents were filed before the Assessing Officer along with the reply, the Assessing Officer disputes such claim. However, as I find that the assessment was completed only on the reason that the petitioner did not file necessary documents, this Court, is of the view that interest of justice would be met, if the petitioner is provided one more opportunity to place those documents before the Assessing Officer so as to enable him to pass fresh orders on merits and in accordance with law, after considering those documents.

5. Accordingly, these writ petitions are allowed and the impugned orders are set aside. Consequently, the matter is remitted back to the Assessing Officer for redoing the assessment once again on merits and in accordance with law, subject to the following terms and conditions :-

(a) The petitioner shall produce one more set of documents in support of their claim, within a period of two weeks from the date of receipt of a copy of this order, before the Assessing Officer.

(b) On receipt of such documents, the Assessing Officer shall afford an opportunity of personal hearing to the petitioner and thereafter, pass fresh Order of Assessment on merits and in accordance with law, within a period of eight weeks thereafter.

6. It is made clear that this Court is not expressing any view on the merits of the claim made by both parties in respect of the assessment, as it is for the Assessing Officer to consider the same afresh and pass orders in accordance with law. No costs. Connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

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To
The Assistant Commissioner (ST),
Avinashi Assessment Circle,
Avinashi.

+1 CC to Mr.B.Raveendran, Advocate sr 88850.
+1 CC to The Spl. Govt. Pleader(T) sr 89248.

W.P.Nos.8426, 8429, 8433, 8436, 8438 & 8442 of 2019

BS(CO)
SP(02/12/2019)