IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 22.07.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.9288 of 2015
and
M.P.No.1 of 2015

Sangeetha Mobiles Pvt. Ltd.,
Represented by its managing Director,
Subhash Chandra L
56, 2nd avenue, Ashok Nagar,
Chennai-83. ...Petitioner

Vs

The Assistant Commissioner (CT),
Kodambakkam Assessment Circle,
PAPJM Building Annexe,
Greams Road, Chennai-6. ...Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, calling for the records on the files of the respondent herein in his TIN 33641424524/2013-14 dated 30.01.2015 to quash the same with the direction to redo the assessment after providing an opportunity of being heard along with their objections dated 03.10.2014.

For Petitioner : Mr.R.Kumar

For Respondent : Mrs.Dhanamadhri
Government Advocate

O R D E R

The petitioner was originally a registered dealer under the Assistant Commissioner (CT), Saligramam Assessment Circle. The registration file of the petitioner came to be transferred to the Assisstant Commissioner (CT), Kodambakkam Assessment Circle due to re-organization of assessment circle. Though the petitioner has raised several grounds in the writ petition, one of the main grounds is that some of the objections raised by the petitioner before the Assessing Officer has not been considered.

2. According to the learned counsel for the petitioner, at the time of inspection, the officers had adopted gross profit at 1.16%, whereas the respondent herein has adopted gross profit at 10% on the purchase value, which is illegal. Since the respondent had adopted 1.16% for stock difference and 10% for gross profit on the purchase value, it reveals that the respondent had not verified the Form WW claimed to have been filed by them. Copy of the Form WW is also produced before this Court. It is the specific case of the petitioner that the Form WW filed by the them has not been verified.

3.It is also the submission of the learned counsel that after the bifurcation of the assessment circle, since an opportunity extended to the petitioner could not be duly utilized by them, this Court should take a lenient view and grant them one more opportunity to substantiate their case.

4.Taking into consideration the limited prayer sought for and also non consideration of Form WW, this Court remits back the matter to the respondent for fresh consideration, in order to give an opportunity to the petitioner to put forth their case. The impugned assessment order shall be treated as a show cause notice, to which the petitioner shall submit their objections within a period of 15 days from the date of receipt of a copy of this order. The respondent shall pass fresh orders after giving due opportunity of personal hearing to the petitioner. It is made clear that the petitioner shall co-operate, whenever an opportunity of personal hearing is extended to him. The respondent shall endeavor to pass final order within a period of three months from the date of receipt of the objections from the petitioner.

5.This writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

rst

To

The Assistant Commissioner (CT),
Kodambakkam Assessment Circle,
PAPJM Building Annexe,
Greams Road, Chennai-6.

+1 cc to Mr.R.Kumar, Advocate, S.R.No.62557

+1 cc to the Special Government Pleader, S.R.No.63017

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and
M.P.No.1 of 2015

NMI(CO)
SSM(29/08/2019)