IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.1213 of 2018
and
WMP. Nos.1515 & 18744 of 2018

M/s.Best Leather Company
Rep. by its Partner K.Elavarasan
No.16/7, 2nd Floor, Patnool Sardar Jung St.,
Periamet, Chennai-600 003. ...Petitioner

vs.

The Income Tax Officer
Non-Corporate Ward-4 (5)
Chennai-600 006. ...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the respondent in PAN No.AAJFB7539G relating to the assessment year 2015-2016 dated 24.11.2017 and quash the same along with the consequential notice under Section 274 read with Section 271(1)(c) of the Income Tax Act, 1961.

For Petitioner : Mr.V.Sundareswararan

For Respondent : Mrs.Hema Muralikrishnan
Senior Standing Counsel

O R D E R

This writ petition is filed challenging the order of assessment dated 24.11.2017. The impugned order of assessment was passed under section 143(3) of the Income Tax Act, 1961.

2. Heard both sides and perused the materials placed before this Court.

3. The learned counsel for the petitioner submitted that the addition is made by the Assessing Officer, merely, based on the admission made by the authorised representative and therefore, such addition cannot be permitted. He further contended that

when the law is otherwise, the Assessing Officer is not justified in making such addition.

4. Perusal of the impugned order shows that the Assessing Officer has taken into consideration the letter filed by the petitioner on 24.10.2017 as well as the fact that there was no bills for Section 12 purchases. Going by those facts, the Assessing Officer made the addition. The contentions raised before this Court by the petitioner thus would go to show that they are disputed factual aspects of the matter and therefore, this Court is not inclined to go into such factual aspects to decide as to whether the impugned order is sustainable or not, for the simple reason, it is for the next fact finding authority to consider those aspects and decide the same. Such authority being the First Appellate Authority, it is for the petitioner to work out his remedy by way of filing an appeal before such authority. Without doing so, the present writ petition is filed challenging the order of assessment.

5. Therefore, without expressing any view on the merits of the matter, this Writ Petition is disposed of, only by granting liberty to the petitioner to file an appeal before the First Appellate Authority, within a period of two weeks from the date of receipt of a copy of this order. If any such appeal is filed, the concerned Appellate Authority shall consider and pass orders on the same on merits and in accordance with law, without reference to the period of limitation. No costs. Consequently, connected miscellaneous petitions are closed.

s/d-
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

mk
To
The Income Tax Officer
Non-Corporate Ward-4 (5)
Chennai-600 006.

+1 CC to Mrs.Hema Muralikrishnan, Advocate sr 83480.

W.P.No.1213 of 2018
EV(CO)
SP(30/10/2019)