IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.01.2019

CORAM

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.24148 of 2018
and
W.M.P.No.28134 of 2018

D.Sureshkumar ... Petitioner

Vs

1. The Commercial Tax Officer,
Group-I Enforcement (Central)
Chennai-6.

2. The Commercial Tax Officer,
MMDA Colony Assessment Circle,
Chennai - 6. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records on the files of the respondent in R.C.No.519/2016/A1 dated 17.07.2018 and quash the same being illegal, invalid, without jurisdiction and violated the principles of natural justice and contrary to law.

For Petitioner : Mr.D.Vijayakumar

For Respondents : Mrs.G.Dhana Madhri
Government Advocate(Tax)

O R D E R

This Writ petition is filed challenging the proceedings dated 17.07.2018, which is nothing but a notice proposing to revise the assessment.

2. Heard both sides.

3. It is the contention of the petitioner that the 1st respondent, having issued a notice dated 05.01.2016 and when the petitioner has made the payment of tax as determined by the 1st respondent, the 2nd respondent is not having jurisdiction to frame an assessment.

4. Admittedly, the 1st respondent is an Enforcement official, whereas the 2nd respondent is the Assessing Authority. Now, the impugned notice is issued by the 2nd respondent making certain proposals for revision of the assessment. Needless to state that the petitioner can raise all his objection before the 2nd respondent by way of filing a reply to the notice of proposal. Without doing so, the petitioner has filed the present writ petition by challenging the proceedings at the notice stage itself. This Court is, thus, not inclined to entertain the writ petition, at this stage, as any expression made by this Court on the contention raised by the petitioner would prejudice further proceedings before the 2nd respondent.

5. Learned counsel for the petitioner apprehends that the 2nd respondent may get influenced by the directions of the higher officials while making the order of assessment. Needless to say that the 2nd respondent/ Assessing Authority, being the quasi judicial authority is bound to consider the issue on merits and in accordance with law uninfluenced by any of the directions, if any, issued by the higher officials or the report filed by Enforcement officials.

6. Therefore, without expressing any view on the merits of the matter, this Writ Petition is disposed of by directing the petitioner to give reply to the notice of proposal by raising all the contentions, within a period of two weeks from the date of receipt of a copy of this order. On receipt of such reply, the 2nd respondent shall pass appropriate orders on merits and in accordance with law, after giving due opportunity of hearing to the petitioner, within a period of eight weeks thereafter. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vsi

To

1. The Commercial Tax Officer,
Group-I Enforcement (Central)
Chennai-6.

2. The Commercial Tax Officer,
MMDA Colony Assessment Circle,
Chennai - 6.

+1 cc to Mr.D.Vijayakumar, Advocate SR.No.1259

W.P.No.24148 of 2018

PPA (CO)
CSL/04.02.2019