IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.09.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.Nos.28276, 28282, 28284, 28286 & 28287 of 2019
and
W.M.P.Nos.27952, 27956, 27960, 27962, 27965 of 2019

Tvl.Aravind Mani Ceramics
Represented by its Proprietor
D.Manibal
Salem Bye-Pass Road
Aavin Nagar,
Krishnagiri - 635 001. ...Petitioner in all W.P.s

vs.

The Assistant Commissioner (ST)
Krishnagiri Assessment Circle
Krishnagiri. ...Respondents in all W.P.s

Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records on the files of the respondent in TIN No.33193304971/2009-2010, 2010-2011, 2011-2012, 2012-2013, and 2014-2015 respectively, dated 04.04.2019 and quash the same as being without jurisdiction, authority of law and beyond the prescribed period of limitation of five years.

For Petitioner in all W.P.s :Mr.R.Senniappan
For Respondent in all W.P.s :Mr.M.Hariharan
Additional Government Pleader (Tax)

COMMON ORDER

Mr.M.Hariharan, learned Additional Government Pleader (Tax) takes notice for the respondent. By consent of both the parties, these writ petitions are taken up for final disposal at the admission stage itself.

2. All these writ petitions are filed challenging the orders revising the assessment relevant to the assessment years 2009-2010, 2010-2011, 2011-2012, 2012-2013 and 2014-2015 respectively.

3. Mr.R.Senniappan, learned counsel for the petitioner contended that the impugned orders were passed solely by relying on the report of the Enforcement Officials without considering the objections filed by the petitioner to the notices of proposal. He further contended that when the notices were issued on 22.11.2017 and the petitioner has filed their objections on 22.12.2017, the impugned orders were passed nearly after a period of one year and eight months, that too, without providing an opportunity of hearing. Therefore, he contended that had an opportunity was given, the petitioner would have satisfied the Assessing Officer as to how the proposal is not correct.

4. The learned Additional Government Pleader appearing for the respondent, on the other hand, contended that the Assessing Officer has considered the objections filed by the petitioner and thereafter, passed the impugned orders. Therefore, the petitioner is not entitled to contend as though the principles of natural justice is violated.

5. It is seen that in respect of the relevant assessment years, notices of proposal were issued on 22.11.2017 and the petitioner has also filed their objections on 22.12.2017. It is further seen that the Assessing Officer sought to revise the assessment, pursuant to the report filed by the Enforcement Wing Officials, subsequent to the inspection conducted at the business place of the petitioner on 16.12.2014, 17.12.2014 and 24.12.2014. Therefore, it is evident that the impugned orders were passed as a consequence of the report filed by the Enforcement Wing Officials. The Assessing Officer rejected the objections filed by the petitioner as an after thought by observing that the defects pointed out were accepted by the petitioner at the time of inspection.

6. This Court has already taken a view that the Assessing Officer cannot simply go by the report filed by the Enforcement Wing Officials without expressing his independent view and reasons either to confirm the proposal or drop the same. No doubt, in this case, in some of the orders, the Assessing Officer has dealt with the objections raised by the petitioner on certain issues. The only grievance is that before concluding the assessment, the petitioner was not provided with an opportunity of hearing. It is seen that the Assessing Officer has chosen to pass the impugned orders after a period of nearly one year and eight months.

7. Considering the above stated facts and circumstances and in order to give final opportunity to the petitioner to place their case before the Assessing Officer, this Court is inclined to remit the matter back to the Assessing Officer to redo the

assessment after giving an opportunity of hearing to the petitioner, however by putting the petitioner on some terms.

8. 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 on the following terms and conditions:

(a) The petitioner shall pay 15% of the tax demand for each assessment year, within a period of two weeks from the date of receipt of a copy of this order.

(b) On receipt of such payment, the Assessing Officer shall fix the date of personal hearing and inform the same to the petitioner.

(c) On completion of such personal hearing, the Assessing Officer shall pass fresh orders of assessment on merits and in accordance with law, within a period of four weeks thereafter.

It is made clear that this Court is not expressing any view on the merits of the claim made by the petitioner, as it is for the Assessing Officer to consider and decide the same. No costs. Consequently, connected miscellaneous petitions are closed.

s/d-
Assistant Registrar(CS V)

True Copy

Sub-Assistant Registrar

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To

The Assistant Commissioner (ST)
Krishnagiri Assessment Circle
Krishnagiri.

+1 CC to Mr.R.Senniappan ,Advocate sr 82203.
+1 CC to The Spl. Govt. Pleader(T) sr 82686

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EV(CO)
SP(23/10/2019)