IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.09.2019

CORAM

THE HON'BLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.26451 of 2019
and
WMP.No.25813 of 2019

M/s.PSR Associates
Represented by its Partner
Mr.N.Padmanaban
4/268(1), Gayathri Garden
Umapathi Nagar,
Behind Mahalakshmi Nagar,
Tirupur Road, Palladam. ...Petitioner

vs.

1. The Assistant Commissioner (ST)
Tirupur (South) Assessment Circle
Tirupur.

2. The State Tax Officer
Enforcement, Group-II
Tirupur. ...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the impugned proceedings of the first respondent in TIN:33462461068/2012-2013 dated 24.06.2019 and quash the same as passed without considering the objections dated 13.07.2018 filed by the petitioner as directed by the Hon'ble Madras High Court in W.P.Nos.33613, 33616, 33620, 33622, 33623, 33625 & 33629 of 2018 by an order dated 17.12.2018 and further direct the first respondent to pass a fresh assessment order after considering the objections dated 13.07.2018 and also granting reasonable opportunity to the petitioner in accordance with law without being influenced by the VSI 3 proposals received from the second respondent.

For Petitioner : Mr.P.Rajkumar
For Respondents : Mr.M.Hariharan
Additional Government Pleader (T)

O R D E R

This writ petition is filed challenging the order of assessment dated 24.06.2019 passed in respect of assessment year 2012-2013.

2. Heard Mr.P.Rajkumar, learned counsel for the petitioner and Mr.M.Hariharan, learned Additional Government Pleader for the respondents.

3. The impugned assessment order was passed on the reason that the petitioner/Assessee failed to file their reply to the notice dated 18.02.2019 and failed to appear for personal hearing in pursuant to the notice served on 09.05.2019.

4. The grievance of the petitioner before this Court is that the impugned order was passed in total violation of the directions issued by this Court in the earlier round of litigation in W.P.Nos.33613 of 2018 etc., dated 17.12.2018. It is contended that those writ petitions were filed challenging the assessment orders dated 16.08.2018 in respect of the very same assessment years 2010-2011 to 2016-2017 and this Court, while disposing those writ petitions set aside those impugned orders and remitted the matter back to the Assessing Officer to redo the assessment by considering the objections already filed by the petitioner on 13.07.2018 for all the assessment years. Therefore, it is contended that without passing fresh order of assessment by considering the objections already filed by the petitioner on 13.07.2018, the Assessing Officer is not justified in issuing further notice to the petitioner and passing the impugned order, as if the petitioner has not filed any objections. In other words, it is the contention of the petitioner that the objections already filed by the petitioner dated 13.07.2018, has not at all been taken into consideration by the Assessing Officer, even though a specific direction was issued by this Court to that effect as stated supra.

5. When the matter was taken up for hearing on 05.09.2019 for admission, this Court after noticing the fact that the impugned order was passed in violation of the directions issued by this Court in W.P.Nos.33613 of 2018 etc., dated 17.12.2018, directed the Registry to post this writ petition on 09.09.2019 also by directing the first respondent, who passed the impugned order to be personally present before this Court on that day.

6. Accordingly, when the matter was taken up for further hearing on 09.09.2019, the learned Additional Government Pleader appearing for the respondents submitted that by mistake the present impugned order has been passed without following the

earlier directions issued by this Court in W.P.Nos.33613 of 2018 etc., dated 17.12.2018 and therefore, the Assessing Officer may be permitted to pass fresh order by following the directions issued by this Court in W.P.Nos.33613 of 2018 etc., dated 17.12.2018 and sought time to file an affidavit to that effect. Hence, for filing such affidavit, the matter is listed today.

7. An affidavit dated 10.09.2019 is filed by the Assistant Commissioner (ST) (FAC), Tirupur (South) Assessment Circle, Kumaran Road, Tirupur, wherein, apart from tendering unconditional apology for not following the directions issued by this Court in W.P.Nos.33613 of 2018 etc., dated 17.12.2018, by the erstwhile Officer, the said Official undertakes to redo the assessment in compliance with the directions issued by this Court in W.P.Nos.33613 of 2018 etc., dated 17.12.2018, after providing a reasonable opportunity to the petitioner and by considering the objections dated 13.07.2018. The above affidavit dated 10.09.2019 is taken on record.

8. The above stated facts and circumstances, thus, would reveal that the impugned order of assessment was passed in total ignorance of the directions issued by this Court in W.P.Nos.33613 of 2018 etc., dated 17.12.2018. Admittedly, the objections raised by the petitioner dated 13.07.2018 are available with the Assessing Officer and therefore, as per the directions issued by this Court earlier, he has to pass the order of assessment based on the objections already filed by the petitioner/Assessee as stated supra. When a specific direction was issued by this Court to that effect, it is totally unwarranted to issue another notice to the petitioner/Assessee to file their objections, as has been done in this case. In any event as the Assessing Officer has now come forward to redo the assessment based on the objections already filed by the petitioner, this Writ Petition is disposed of as follows:

(a) The impugned order of assessment is set aside and the matter is remitted back to the Assessing Officer for redoing the assessment on merits and in accordance with law, by considering the objections already filed by the petitioner on 13.07.2018.

(b) An opportunity of personal hearing should also be provided to the petitioner before concluding the assessment.

(c) The petitioner/Assessee shall co-operate with the Assessing Officer in completing the assessment within the time stipulated by this Court.

(d) The whole exercise shall be done by the Assessing Officer within a period of six weeks from the date of receipt of a copy of this order.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

mk

To

1. The Assistant Commissioner (ST)
   Tirupur (South) Assessment Circle
   Tirupur.

2. The State Tax Officer
   Enforcement, Group-II, Tirupur.

+1cc to Mr.P.Rajkumar, Advocate in sr.no.78012

W.P.No.26451 of 2019

JP(CO)
CS/09/10/2019