IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2019

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THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.Nos.27163, 27165 & 27167 of 2019

and

W.M.P.Nos.26551, 26553 & 26556 of 2019

M/s. A.S.Textiles,
Represented by its Proprietor,
Mr.G.Arumugam
75, Process Server Street,
Tirupur – 641601. ... Petitioner in all WPs

Vs.

1. The Assistant Commissioner (ST),
Tiruppur Central – I Circle,
Tiruppur – 641601.

2. The Commercial Tax Officer,
(Enforcement Group – I),
Tiruppur. ... Respondents in all WPs

Common Prayer : Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the impugned proceedings of the first respondent in TIN No. 33492404743/2013-14, TIN No. 33492404743/2014-15, TIN No. 33492404743/2015-16 and quash the impugned order dated 26.06.2019 as passed contrary to the law laid down by the Hon'ble Madras High Court in the case of M/s. Sri Vinayaga Agencies reported in 60 VST 283 and by the Division Bench of the Madras High Court in the case of State of Tamil Nadu Vs Infiniti Wholesale Limited reported 99 VST 341 and also in violation of the principles of natural justice.

For Petitioner : Mr.P.Rajkumar
(in all WPs)

For Respondents : Mr.Mohammed Sheffiq
(in all WPs) Special Government Pleader

C O M M O N   O R D E R

These three writ petitions are filed challenging the Orders of Assessment dated 26.06.2019 relevant to Assessment Years 2013-14, 2014-15 and 2015-16.

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

3. Though several contentions are raised by the petitioner canvassing the merits of the assessment, their main grievance is that the impugned orders of assessment were passed in total non-application of mind to the objections filed by the petitioner that too by a different officer, when the objections were filed before another officer. It is also contended that the objections are over ruled by single line observation that they are not acceptable, without discussing any of the objections and giving independent findings and reasonings on those objections.

4. Mr.P.Rajkumar, learned counsel appearing for the petitioner, reiterated the above contentions.

5. Mr. Mohammed Sheffiq, learned Special Government Pleader appearing for the respondent though submitted that the Assessing Officer has referred to the objections filed by the petitioner, is not disputing the fact that there is no discussion on those objections in detail.

6. It is seen that the previous Assessing Officer issued notices of proposal to the petitioner on 28.11.2016 and 13.04.2017. It is further seen that the petitioner filed their detailed reply on 06.01.2017 and 24.04.2017. The Assessment Orders referred to the filing of such reply and in fact extracted the same also in the Orders of Assessment. However, the fact remains that though, such reply was filed as early as in the month of January and April of 2017, the impugned Orders of Assessment were passed in the month of June, 2019, admittedly, by a different Assessing Officer also by not providing any personal hearing to the petitioner.

7. Perusal of the Assessment Orders also supports the claim of the petitioner that the same came to be passed without discussing any of the objections raised by the petitioner and giving independent reasonings and findings on those objections.

8. Therefore, this Court is satisfied to set aside the impugned order only for the purpose of remitting the matter back to the Assessing Officer to redo the assessment after giving an opportunity of personal hearing to the petitioner and also by considering the objections already filed by them on 06.01.2017 and 24.04.2017. It is also made clear that this Court, is not expressing any view on the merits of the objections raised by the petitioner, as it is for the Assessing Officer to consider the same and pass fresh orders on merits and in accordance with law.

9. Accordingly, all these writ petitions are allowed and the impugned orders are set aside. Consequently, the matter is remitted back to the Assessing Officer to redo the Assessment and pass fresh orders on merits and in accordance with law, after giving due opportunity of hearing to the petitioner. The whole exercise shall be done by the Assessing Officer, within a period of eight weeks from the date of receipt of a copy of this order. No costs. Connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Assistant Commissioner (ST),
   Tiruppur Central – I Circle,
   Tiruppur – 641601.

2. The Commercial Tax Officer,
   (Enforcement Group – I),
   Tiruppur.

+1 cc to M/s.P.Rajkumar Advocate sr89488
+1 cc to special Government pleader taxes sr 89787

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aa29/11/2019