IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.09.2019

CORAM

THE HON'BLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.27349 of 2019
and
WMP.Nos.26785 & 26788 of 2019

M/s.National Tyre Re-treading
Rep. by its Proprietrix - K.Latha
No.71/5, Kanchipuram Road,
Cheyyar, Tiruvannamalai District. ...Petitioner

vs.

The State Tax Officer(FAC)
Vandavasi, Tiruvannamalai District. ...Respondent

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 file of the respondent in his impugned proceedings made in TIN.No.33304602431/2013-2014 dated 09.05.2018 and quash the same as illegal and contrary to the scheme of the Act.

For Petitioner : Mrs.R.Hemalatha

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

O R D E R

Mrs.G.Dhana Madhri, learned Government Advocate (Tax) takes notice for the respondent. By consent of the parties, the writ petition is taken up for final disposal at the admission stage itself.

2. The petitioner is aggrieved against the order of assessment dated 09.05.2018 passed by the respondent relevant to the assessment year 2013-2014.

3. Heard both sides.

4. The only issue involved in the impugned order of assessment is mis-match issue. The Assessing Officer, after

issuing notice of proposal, passed the impugned order by imposing tax as well as penalty at the rate of 150%. The petitioner, though paid the tax amount of Rs.1,26,584/- has however, questioned the imposition of penalty of Rs.1,89,876/- mainly by contending that the Assessing Officer has not provided an opportunity of personal hearing to the petitioner before imposition of such penalty.

5. Perusal of the impugned order does not show, as if personal hearing was provided to the petitioner, even though the petitioner has not filed any objections/details to the notice of proposal. Considering the fact that the petitioner has already paid the tax liability and is aggrieved only against the imposition of penalty by contending that there is no wilful suppression, this Court is of the view that one more opportunity can be provided to the petitioner by the Assessing Officer to consider as to whether the imposition of penalty is required in this matter or not. It is also made clear that this Court is not expressing any view on the merits of the claim made by the petitioner on the question of penalty, as it is for the Assessing Officer to consider and decide the same.

6. Accordingly, this Writ Petition is allowed and the impugned order in respect of imposition of penalty is set aside. Consequently, the matter is remitted back to the Assessing Officer to reconsider the issue of penalty alone and pass fresh orders of assessment on merits and in accordance with law, after giving an opportunity of personal hearing to the petitioner. 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 petitions are closed.



Sd/-
Assistant Registrar



//True Copy//

Sub Assistant Registrar

mk

To

The State Tax Officer(FAC)
Vandavasi, Tiruvannamalai District.

+1cc to Mrs.R.Hemalatha, Advocate, S.R.No.79475
+1cc to the Special Government Pleader(T), S.R.No.79853

W.P.No.27349 of 2019

SV(CO)
CS/10/10/2019