IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 27.09.2019

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THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.Nos.28586, 28588 & 28591 of 2019
and
W.M.P.Nos.28329, 28332 & 28335 of 2019

Saravana Stores
rep. by its Proprietrix
Mrs.T.Sumathi
Punjaipuliyampatti,
No.57, Erangattupalayam,
Nallur Village,
Sathyamangalam Taluk. ...Petitioner in all the W.Ps.

Vs.

The State Tax Officer,
Sathyamangalam Assessment Circle,
Sathyamangalam. ...Respondent in all the W.Ps.

Writ Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certioriarified Mandamus to call for the records of the respondent in TIN.33972983472/2013-2014, TIN.33972983472/2014-2015 and TIN.33972983472/2015-2016 and quash the orders dated 28.08.2019, 30.08.2019 and 03.09.2019 passed therein and further direct the respondent to afford reasonable opportunity of being hearing the petitioner before passing any order.

For Petitioner
in all the W.Ps. : Mr.Raveendran.R.

For Respondent
in all the W.Ps. : Mrs.G.Dhana Madhri,
Government Advocate (Tax)

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COMMON ORDER

These three writ petitions are filed challenging the orders of assessment passed in respect of the assessment years 2013-2014, 2014-2015 & 2015-2016 dated 28.08.2019, 30.08.2019 & 03.09.2019 respectively.

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2. Mrs.G.Dhana Madhri, learned Government Advocate takes notice for the respondent. By consent, the main writ petitions are taken up for final disposal, since the issue involved in these cases lies in a narrow compass.

3. The grievance of the petitioner is that the Assessing Officer has chosen to pass the impugned orders without giving an opportunity of personal hearing. Therefore, it is contended that, had an opportunity was given so, the petitioner would have satisfied the Assessing Officer as to how the conclusion arrived by him are factually incorrect.

4. On the other hand, the learned Government Advocate submitted that it is not that the Assessing Officer has chosen to pass the assessment orders without affording an opportunity of personal hearing and on the other hand, the very notice of proposal issued clearly indicates that the petitioner is entitled to the opportunity of personal hearing at the office of the Assessing Officer within 15 days from the date of receipt of such notice.

5. Heard both sides.

6. The orders of assessment are put to challenge mainly on the ground of violation of principles of natural justice, namely failure to afford an opportunity of personal hearing. It is not the case of the respondent that the petitioner is not entitled to personal hearing. On the other hand, the very notice of proposal clearly indicates that the assessee is entitled to such an opportunity within 15 days from the date of receipt of the said notice. The said notice of proposal was issued calling upon the assessee to file their objections, if any, with documentary evidences in support of their claim, within 15 days from the date of receipt of the notice. It is also not in dispute that on receipt of such notice, the petitioner filed reply in detail. Now, the question is whether personal hearing is to take place before or at the time of or after filing the objections.

7. This Court has already considered such view and opined that personal hearing should be conducted after filing the objections, specifically by fixing a date for doing so and intimating the assessee. The purpose of having the personal hearing after filing the objections is to enable the Assessing Officer to go through the objections and hear the assessee in person on the objections, if the Assessing is not convinced with those objections.

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Therefore, an opportunity of providing personal hearing should be an effective and meaningful one and not an empty formality. 8. In this case, as rightly pointed out by the learned counsel for the petitioner, the Assessing Officer has not fixed the date of personal hearing after receipt of objections even though the notice of proposal clearly indicates that the petitioner is entitled for such hearing.

9. Accordingly, I am inclined to interfere with the impugned orders only on the ground of violation of principles of natural justice, namely, failure to provide personal hearing. In all other aspects, this Court is not expressing any view on the merits of the claim made by the petitioner as well as the Assessing Officer on the assessment.

10. Accordingly, this Court is inclined to remit the matter back to the Assessing Officer for redoing the assessment after providing an opportunity of personal hearing to the petitioner. These Writ Petitions are allowed and the impugned assessment orders are set aside. Consequently, the matter is remitted back to the Assessing Officer for redoing the assessment after fixing the date for personal hearing and intimate the same 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. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(Cj conf)

//True Copy//

Sub Assistant Registrar

vsi
To

The State Tax Officer,
Sathyamangalam Assessment Circle,
Sathyamangalam.

+1cc to Mr.Raveendran.R. , Advocate SR.No. 83024
+1 cc to Spl Government Pleader (Taxes)Sr.No.83490

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A.SK(22/10/2019)

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