IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.10.2019

CORAM

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.29250 of 2019

and

W.M.P.No.29055 of 2019

Tvl. Sri Bhavani Hardwares and Glass House,
represented by its Proprietor
K.Sambhoo Singh,
No.3, Sabhanayagar Street,
Chidambaram. ... Petitioner

Vs.

The Commercial Tax Officer,
Chidambaram - II. ... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the respondent vide his impugned Order of Assessment in TIN No.33204462515/2013-14 dated 06.05.2016 and quash the same as being arbitrary, illegal and unconstitutional and as having been passed in violation of principles of natural justice and to further direct the respondent to redo the assessment by following the guidelines/directions laid down in W.P.No.105/2016 in the case of M/s. JKM Graphics Solutions Private Limited, Chennai - 112 Vs. The Commercial Tax Officer, Vepery Assessment Circle, Chennai.

For Petitioner : Mr.N.Chandrasekaran
For M/s.MF.Shabana

For Respondent : Mrs.G.Dhana Madhri
Government Advocate

O R D E R

This writ petition is filed challenging the Order of Assessment passed relevant Assessment Year 2013-14 dated 06.05.2016.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondent.

3. It is the case of the petitioner that the only issue involved before the Assessing Officer viz., the mismatch issue, is covered by the decision of this Court reported in "M/s. JKM Graphics Solutions Private Limited Vs. The Commercial Tax Officer" and therefore, the assessment has to be redone, by following the guidelines/directions issued by this Court in the above said case.

4. The learned Government Advocate appearing for the respondent on the other hand submitted that the Order of Assessment in this case was issued much earlier to the order passed by this Court in "M/s. JKM Graphics Solutions Private Limited Vs. The Commercial Tax Officer" case and therefore, the petitioner having not approached this Court at the right time cannot seek any indulgence.

5. Upon hearing both sides and perusing the materials placed before this Court, it is seen that the issue dealt with by the Assessing Officer is a mismatch issue and the said issue was considered by this Court in "M/s. JKM Graphics Solutions Private Limited Vs. The Commercial Tax Officer" case and in the said case certain guidelines and directions were issued to the Assessing Officer as to how such mismatch issue has to be dealt with by adopting the centralized mechanism.

6. Perusal of the impugned assessment order would show that the Assessing Officer has to necessarily follow such centralized mechanism and redo the assessment. However, such indulgence cannot be shown to the petitioner simply by remitting the matter back to the Assessing Officer to redo the assessment, since this writ petition itself was filed much after a period of nearly three years after the Order of Assessment. Therefore, the petitioner should be put on some terms so that the assessment can be directed to be made afresh by following the procedures and guidelines issued in "M/s. JKM Graphics Solutions Private Limited Vs. The Commercial Tax Officer" case.

7. Accordingly, this writ petition is allowed and the impugned assessment order is set aside. Consequently, the matter is remitted back to the Assessing Officer to redo the assessment by following the "M/s. JKM Graphics Solutions Private Limited Vs. The Commercial Tax Officer" case, subject to the conditions that the petitioner pays 50% of the tax liability within a period of four weeks from the date of receipt of a copy of this order. On receipt of such payment and also objections if any, filed by the petitioner, the Assessing Officer shall redo the assessment by following the procedures / guidelines issued by this Court in "M/s. JKM Graphics Solutions Private Limited Vs. The Commercial Tax

Officer" case and pass fresh Order of Assessment as expeditiously as possible. No costs. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

sni

To

1.The Commercial Tax Officer,
Chidambaram - II.

+1cc to Mr.M.F.Shabana, Advocate, S.R.No. 89155
+1cc to the Special Government Pleader(Taxes), S.R.No. 89249

W.P.No.29250 of 2019

BR(CO)
GN(22/11/2019)