IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2019

CORAM

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.29907 of 2019
and
W.M.P.No.29813 of 2019

Tvl. Sankar Sales Corporation,
Rep. by Proprietor H.Ramlal,
No.44, Porikkar Lane, R.G.Street,
Coimbatore - 641001.
... Petitioner

Vs.

The State Tax Officer,
(The Assistant Commissioner)
R.G.Street, Assessment Circle,
Coimbatore. ... 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 in his proceedings in TIN No.33371760535/2013-14 dated 08.08.2019 and quash the same and direct the respondent to redo the assessment after giving opportunity to the petitioner.

For Petitioner : Mr.K.R.Krishnan

For Respondent : Mr.Mohammed Sheffiq
Special Government Pleader

O R D E R

The petitioner is aggrieved against the order of assessment dated 08.08.2019 relevant to Assessment Year 2013-2014.

2. Heard both sides.

3. The main grievance of the petitioner is that the Assessing Officer, before passing the impugned order, did not consider the objections filed by the petitioner to the notice of proposal dated 13.06.2019, served in person, at the office of the Assessing Officer on the same day. Therefore, it is contended that the impugned order, referring as though the

petitioner did not filed any reply, is not only against facts but also in violation of principles of natural justice.

4. The learned Special Government Pleader, on the other hand, submitted that though the copy of the letter delivery book filed before this Court indicates as though a reply was filed by the petitioner and served on the Assessing Officer on 13.06.2019, the initial found in the letter delivery book does not match with any of the staff of the Assessing Officer.

5. It is seen that the Assessing Officer issued pre-assessment notice dated 03.06.2019. According to the petitioner, they filed their objection on 13.06.2019 in detail. The copy of the said objection is also filed in the typed-set of papers. Along with the said objection, the petitioner enclosed copy of the Profit and Loss Account and Income Tax Return. However, it is disputed by the Revenue that no such reply was filed by the petitioner. Though such contention is raised by the Revenue, letter delivery book filed before this Court, drives this Court to have a prima facie view in favour of the petitioner that such reply seems to have been filed on 13.06.2019 in view of another entry made therein which relates to seeking of time extension for thirty days for filing the reply.

6. It is seen that such request was made on 13.06.2019. When such being the position, this Court is of the view that it is for the Assessing Officer to redo the assessment by considering the objections filed by the petitioner and pass fresh orders on merits and in accordance with law, since the assessment was passed only because the petitioner has not filed any reply. Accordingly, this writ petition is allowed and the impugned order is set aside. Consequently, the matter is remitted back to the Assessing Officer to redo the assessment subject to the following terms and conditions :-

(a) The petitioner shall file copy of the objections once again before the Assessing Officer along with necessary documents within a period of two weeks from the date of receipt of a copy of this order.

(b) On receipt of such objections with necessary documents, the Assessing Officer shall afford an opportunity of personal hearing to the petitioner and therefore, pass fresh order of assessment on merits and in accordance with law, within a period of six weeks thereafter.

7. It is made clear that this Court is not expressing any view on the merits of the claim made by both parties, as it is for the Assessing Officer to consider and decide afresh. No costs. Connected miscellaneous petition is closed.

sd/-
Assistant Registrar(CS-III)

// True Copy//

Sub Assistant Registrar

sni

To

The State Tax Officer,
(The Assistant Commissioner)
R.G.Street, Assessment Circle,
Coimbatore.

+1CC to Mr.K.R.Krishnan, Advocate, Sr.No.89780.
+1CC to SPL GP Sr.No.89786.

W.P.No.29907 of 2019

CP(CO)
CSR(26/11/2019)