IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.11.2019

CORAM

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.33169 of 2019
and
W.M.P.No.33607 of 2019

Tvl.Wings Knit Garments,
rep. by its Proprietor,
R.Thiravium,
(S/o T.Rajendren, aged aabout 49 years)
No.10, Asher Nagar, 3rd Street,
Gandhi Nagar,
Tiruppur. ...Petitioner

vs.

The Assistant Commissioner
(ST) (FAC),
North Circle-I,
Tiruppur. ...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records of the impugned proceedings of the respondent bearing TNGST 2304632/2003-04 dated 21.08.2019 and quash the same.

For Petitioner : Mr.S.Raveekumar

For Respondent : Mr.Master Ganesh,
Government Advocate.

O R D E R

Mr.Master Ganesh, learned Government Advocate takes notice for the respondent. By consent of both the parties, the main writ petitions is taken up for final disposal at the admission stage itself.

2. Challenge made in this writ petition is against the order dated 21.08.2019 revising the assessment for the year 2003-04.

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

4. The impugned order is challenged mainly on two grounds as follows:

(a) The Assessing Officer has not signed the assessment order even though he has chosen to sign Form B-3 and Form 54 annexed to the assessment order.

(b) Even otherwise, the assessment cannot be sustained in the eye of law, since the same was done without providing sufficient opportunity to the petitioner. Thus, it violates the principles of natural justice.

5. It is seen that the Assessing Officer issued a notice dated 03.04.2019 and called upon the petitioner to file their objections along with certain records referred to in the said notice. It is seen that the petitioner has filed their reply on 30.04.2019 enclosing certain documents. It is also made clear therein that the petitioner would be willing to furnish any further information on hearing from the Assessing Officer. However, the assessment order was passed without calling upon the petitioner to furnish any further documents, however, by stating that the petitioner have not filed the complete records for the job work done for their customers and the records filed were found to be incorrect and incomplete.

6. Learned Government Advocate fairly submitted that the assessment order challenged in this writ petition was not signed by the Assessing Officer by mistake and therefore, he would issue fresh order after hearing the petitioner.

7. It is true that the assessment order challenged in this writ petition was not signed by the Assessing Officer. However, the Forms annexed in the impugned assessment order were signed. In any event, as this Court is inclined to remit the matter back to the Assessing Officer for reopening the assessment as stated supra, the Assessing Officer shall consider the objections to be filed by the petitioner as stated supra as well as the other documents and thereafter pass fresh order on merits and in accordance with law.

8. Accordingly, this Writ Petition is allowed and the impugned proceedings are set aside. Consequently, the matter is remitted back to the Assessing Officer for redoing the assessment on merits and in accordance with law under the following terms and conditions.

(a) The petitioner shall file further objections with relevant documents within a period of two weeks from the date of receipt of a copy of this order.

(b) On receipt of such further objections and relevant documents, the Assessing Officer shall fix a date for personal hearing.

(c) On completion of personal hearing, the Assessing officer shall pass fresh assessment order on merits and in accordance with law within a period of six weeks thereafter.

(d) This Court makes it clear that it 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. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

vsi

To

The Assistant Commissioner
(ST) (FAC),
North Circle-I,
Tiruppur.

+1cc to Mr.S.Raveekumar , Advocate SR.No. 99006
+1 cc to Spl Government Pleader tax Sr.No. 99604

W.P.No.33169 of 2019

vd (CO)
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