IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 15.10.2019

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.32623 of 2018
and
W.M.P.No.37827 of 2018

Tvl.Lotus Agencies,
Rep. by its Proprietor,
P.Periyaswamy,
No.104-A, Park Road,
Erode 638 003.

...Petitioner

Vs.

The Assistant Commissioner (ST),
Park Road Assessment Circle,
Erode.

...Respondent

PRAYER:Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of certiorari to call for the records on the file of the respondent in Roc.No.320/2018/A3/TIN No.33952869293/2014-15 dated 11.07.2018 and quash the same as being without jurisdiction and authority of law and contrary to the principles of natural justice.

For Petitioner : Mr.R.Senniappan

For Respondent : Mr.M.Hariharan
Additional Government Pleader (Taxes)

O R D E R

The petitioner is aggrieved against the demand notice dated 11.07.2018, calling upon the petitioner to pay a sum of Rs.8,08,734/-, being the arrears of tax and penalty relevant to the assessment year 2014-15.

2. Heard Mr.R.Senniappan, learned counsel for the petitioner and Mr.M.Hariharan, learned Additional Government Pleader for the respondent.

3. The grievance of the petitioner against the impugned demand is that the same was issued without passing an order of assessment and serving the same on the petitioner. In other words, it is the specific contention of the petitioner that the demand was made without passing an order of assessment. Therefore, this Court directed the learned Government Pleader to verify as to whether any order of assessment was passed before issuing the impugned demand. Accordingly, the matter was adjourned on few occasions and thereafter, it was informed by the learned Government Pleader that an order of assessment was passed on 08.06.2017 and the same was sent to the petitioner through RPAD on 13.06.2017 and served on them on 14.06.2017. In support of his contention, the learned counsel relied on the communication issued by the Senior Post Master, Erode Head Office dated 08.02.2019, stating that Article was delivered on 14.06.2017 at Karungalpalayam S.O. to Lotus Agency viz., the petitioner herein.

4. From the above facts and circumstances, it is seen that the contention of the petitioner that the impugned demand was made without passing an order of assessment, is factually incorrect. Learned counsel for the petitioner, however submitted that the petitioner did not receive such order of assessment. This Court at this stage, is not inclined to entertain any further submissions challenging the impugned demand, especially when it is brought to the notice of this Court that an order of assessment had already been passed. If that be the case, the petitioner is at liberty to challenge the same before the appropriate forum. Hence, going by the facts and circumstances of the present case, this writ petition is disposed of by granting liberty to the petitioner to work out their remedy by challenging the order of assessment in accordance with law. The Revenue is directed to furnish one more copy of the assessment order to the petitioner within a period of two weeks from the date of receipt of a copy of this order. On receipt of such copy of the assessment order, it is open to the petitioner to challenge the same by filing an appeal within a period of two weeks thereafter before the appropriate forum. If any such appeal is filed before the Appellate Authority, the Appellate Authority shall consider the appeal on

its merits and pass orders in accordance with law, without reference to the period of limitation. Till an appeal is filed by the petitioner within the time stipulated as stated supra, the impugned demand shall be kept in abeyance. No costs. The connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Assistant Commissioner (ST),
Park Road Assessment Circle,
Erode.

+1cc to Mr.R.Senniappan, Advocate sr.86258
+1cc to Special Government Pleader(Taxes) sr.86604

W.P.No.32623 of 2018

bp(co)
nr 05/11/2019