IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2019

CORAM

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.33863 of 2018
and
W.M.P.No.39325 of 2018

Tvl.Sri Sivasakthi Interiors
represented by its Proprietor
1A, 2A & 3A, 1st Floor,
Gandhi Nagar, Madambakkam Main Road,
Rajakilpakkam,
Chennai-600 126. ...Petitioner

Vs

Deputy Commissioner Tax Officer,
Selaiyur Assessment Circle,
No.3, Sriram Nagar Road,
Selaiyur,
Chennai - 600 073. ...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 respondent in order dated 15.05.2018 in TIN 33930946591/2014-15 and quash the same.

For Petitioner : Mr.Adithya reddy

For Respondent : Mrs.G.Dhana Madhri
Government Advocate

O R D E R

The petitioner is aggrieved against the order of assessment dated 15.05.2018 relevant to the assessment year 2014-15.

2. The main grievance of the petitioner before this Court is that the Assessing Officer has not dealt with the mismatch issue, being the only issue, by following the procedures/guidelines issued by this Court in JKM Graphics Solutions Vs. CTO, ([2017] 99 VST 343).

3. On the other hand, the learned Government Advocate submitted that certain material details are given in the notice of proposal itself and therefore, the petitioner should have filed their reply at least to enable the Assessing Officer to follow the other procedures. Therefore, she contended that when admittedly, the petitioner has not filed the reply, they cannot

seek any indulgence form this Court.

4. Heard both sides.

5. It is not in dispute that the only issue involved in this case is the mismatch issue. It is not in dispute that the said issue has to be considered and decided by the Assessing Officer by following the procedures and guidelines issued in JKM Graphics case. There is no dispute to the fact that the present impugned order was passed much later to the order passed in JKM Graphics case. Therefore, in all fairness, the Assessing Officer is expected to follow the directions issued in JKM Graphics case wherein this Court has directed to do the assessment by evolving a centralised mechanism while dealing with the mismatch issue. However, as rightly pointed out by the learned Government Advocate, the petitioner atleast should have filed the reply to the notice of proposal which contains certain details. In this case, as the petitioner has not filed any reply, this Court is inclined to interfere with the order only by putting the petitioner on some terms.

6. Accordingly, the writ petition is allowed and the impugned oder of assessment is set aside and the matter is remitted back to the Assessing officer, subject to the following terms and conditions.

a) The petitioner shall pay 10% of the tax liability within a period of two weeks form the date of receipt of a copy of this order along with their reply to the notice of proposal.

b) On receipt of such reply with 10% tax liability, the Assessing Officer shall follow the procedure/guidelines issued in JKM Graphics case also by providing personal hearing to the petitioner and conclude the assessment on merits and in accordance with law within a period of twelve weeks thereafter. It is made clear that this Court is not expressing any view on the merits of the claim made by the respective parties. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

vsi

To

Deputy Commissioner Tax Officer,
Selaiyur Assessment Circle,
No.3, Sriram Nagar Road,
Selaiyur,
Chennai - 600 073.

+1cc to Mr.Adithya Reddy, Advocate SR.No.856

+1cc to Special Government Pleader SR.No.1545

W.P.No.33863 of 2018

VGI(CO)
GMY(30/01/2019)