

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.01.2019

CORAM

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.Nos.34082 & 34097 of 2018
and
W.M.P.Nos.39597 & 39622 of 2018

R.Parthiban
Civil Contractor,
No.5, Alamelupuram,
Villupuram - 605 602.

...Petitioner in both W.Ps.
Vs

The Assistant Commissioner (ST)
Villupuram-I Assessment Circle,
Villupuram

...Respondent in both W.Ps.

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the impugned proceedings of the respondent in TIN No.33894683441 of 2013-14 and 2014-15 and quash the impugned order dated 31.10.2018 as passed in violation of the principles of natural justice and contrary to the provisions of the TNVAT Act and further direct the respondent to grant a reasonable opportunity to the petitioner to file their objections and the documents and thereafter pass a fresh assessment order in accordance with law.

For Petitioner : Mr.P.Rajkumar
in both W.Ps.

For Respondent : Mr.M.Hariharan,
in both W.Ps. Additional Government Pleader (T)

COMMON ORDER

These writ petitions are filed challenging the orders of assessment dated 31.10.2018 passed in respect of assessment years 2013-14 and 2014-15.

2.The petitioner is a Civil Contractor engaged in the construction of various Government buildings for the State Government. For the assessment years 2013-14 and 2014-15, notice of proposals were issued on the petitioner on 18.06.2018. Since the petitioner did not file any reply, the Assessing Officer concluded the assessment and confirmed the proposal by passing

the impugned assessment orders. Hence, the present writ petitions are filed, mainly by contending that non-filing of the reply to the notice of proposal was neither deliberate nor intentional and on the other hand, due to the health reason of the petitioner.

3.It is stated that the petitioner was suffering from Schizophrenia and taking treatment in a De-addiction Centre in Coimbatore at the relevant point of time and therefore, he was not in a position to file objections in time. In support of the above contention, the petitioner filed the medical certificate dated 16.12.2018 and another certificate dated 01.01.2019 issued by the Psychiatry & De-addiction Center, Coimbatore certifying that the petitioner was admitted in SAARAL Neuro-Psychiatry & De-addiction Centre, Coimbatore from 20.08.2018 to 15.10.2018.

4.Considering the above stated facts and circumstances and considering the fact that the Assessing Officer has concluded the assessment only on the reason that the petitioner did not file his objections and also considering the fact that the petitioner was also imposed with penalty, this Court is of the view that one more opportunity can be given to the petitioner to place his objection, so as to enable the Assessing Officer to redo the assessment afresh, on merits and in accordance with law.

5.Accordingly, both these Writ Petitions are allowed and the impugned orders are set aside. Consequently, the matter is remitted back to the Assessing Officer on the following terms and conditions:

a) The petitioner shall treat the impugned assessment orders as notice of proposal and file his objection within a period of two weeks from the date of receipt of a copy of this order.

b) On receipt of such objection, the Assessing Officer shall inform the date of personal hearing.

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

6. It is made clear that this Court is not expressing any view on the merits of the assessment. No costs. Consequently, the connected miscellaneous petitions are closed.

-s/d-
Deputy Registrar

True Copy

Sub-Assistant Registrar

gsi/vsi

To

The Assistant Commissioner (ST)
Villupuram-I Assessment Circle,
Villupuram

+1 CC to Mr.P.Rajkumar, Advocate sr 6423.

+1 CC to Spl. Govt. Pleader(T) sr 7227

W.P.Nos.34082 & 34097 of 2018

SP(12/02/2019)