IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.08.2020

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

Writ Petition Nos.1445 &1457 of 2020

and WMP. Nos.1714, 1716, 1725 & 1729 of 2020

M/S.HABEEB MARKETING,
Rep by its Proprietor K.Mohamed Showkath,
Ali NO 117-A, 1st Floor, Villupuram Road,
Gingee- 604 202, Villupuram District.

… Petitioner in both WPs

Vs

The State Tax Officer,
Gingee, Villupuram District.

… Respondent in both WPs

COMMON PRAYER: Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari, calling for the records on the file of the Respondent in his Impugned proceedings made in TIN 33164741606/ 2012-13 dated 13.2.2015 and TIN 33164741606/ 2013-14 dated 30.1.2015 and to quash the same as illegal and contrary to the scheme of the Act.

For Petitioner : Mr.S.Rajasekar for both WPs

For Respondent : Ms.G.Dhanamadhri,
Government Advocate for both WPs

C O M M O N   O R D E R

Heard Mr.S.Rajasekar, learned counsel for the petitioner and Ms.G.Dhanamadhri, learned Government Advocate for the respondent.

2. The challenge is to two orders of assessment dated 13.02.2015 and 30.01.2015 for the periods 2012-13 and 2013-14 respectively.

3. The main contention of the petitioner is that neither the impugned proceedings nor the pre-assessment proposal referred in the impugned orders, were served upon it. It was only at the stage of recovery that the petitioner came to know of the impugned proceedings, approached the Assessing Officer and obtained copies of the orders that have now come to be challenged in these writ petitions.

4. A perusal of the counter filed by the respondent reveals that both the pre-assessment notices as well as orders have been served only by affixture, admittedly, for the reason that the petitioner had closed its business in the address mentioned in the registration certificate.

5. Though some submissions have been addressed on the interpretation of Rule 19 relating to service of notices and orders, it may not be necessary to delve into the same in this matter, seeing as a fair submission is made by the learned revenue counsel to the effect that the impugned order may itself be treated as a notice and the petitioner called upon to file its response to the same,

6. Therefore, taking note of the above submission, the impugned orders are set aside and will be treated as show cause notices, to which the petitioner will file its reply within a period of three (3) weeks from today. In the light of Circular No.3 of 2019 dated 18.01.2019, wherein the Commissioner has directed the Assessing Officers to keep in abeyance all proceedings relating to mismatch between assessees' returns and returns of selling/purchasing dealers (see M/s.JKM Graphics Solutions Private Limited V. Commercial Tax Officer (99 VST 343), let the proceedings for assessment be kept in abeyance till such time a mechanism as recommended by this Court is set up.

7. The proceedings for assessment shall revive upon setting up of the central mechanism and be completed expeditiously, in accordance with law. These writ petitions are disposed in the aforesaid terms. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

The State Tax Officer,
Gingee, Villupuram District

+1cc to Mr.R.Hemalatha, Advocate, Sr.No.26275
+1cc to Special Government Pleader(Taxes), Sr.No.26176

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GS(21/08/2020)