IN HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2020

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.26644 of 2012
and
M.P.No.1 of 2012

Sri.C.R.Badrinath,
Director,
M/s. Madras Knitwear (P) Ltd.,
148/55, Manonmani Terrace,
Greenways Road, Raja Annamalaipuram,
Chennai - 600 028. ...Petitioner

Vs.

The Recovery Officer - VII,
Company Range, IV,
4^{th} Floor, 121,
Mahatma Gandhi Road,
Chennai - 600 034. ...Respondent

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records on the file of the respondent and issue a writ, direction or order in the nature of certiorari or any other appropriate writ application quash the impugned notice issued u/s. 179 of the Act in T.R.No.M-100/2012-2013 dated 20.09.2012 and consequentially quash the said proceedings as illegal and without jurisdiction.

For Petitioner	:	Mr.R.Sivaraman
For Respondent	:	M/s.Hema Muralikrishnan Standing Counsel

O R D E R

Heard the learned counsel for the petitioner and the respondent.

2. In this Writ Petition, the petitioner has challenged the impugned recovery notice dated 20.09.2012 bearing reference T.R.No.M-100/2012-2013 issued by the respondent pursuant to the

order confirming the demand against the petitioner.

3. The learned standing counsel for the respondent submits that the appeal of the petitioner assessee has been allowed by Income Tax Appellate Tribunal 'A' Bench, Chennai, in its order dated 27.06.2019 in I.T.A.No.975/Chny/2019 for the Assessment Year 2006-07. She has also filed a copy of the said order. The operative portion of the said order reads as follows:-

> The assessee claims that necessary details could not be produced before the Assessing Officer. The assessee explained before the Ld.CIT(A) the reasons for non-filing the details as called for by the Assessing Officer. The assessee has filed additional material before the Ld.CIT(A). However the Ld.CIT(A) found that the assessee cannot have any further opportunity without making use of the opportunities given by the Assessing Officer. This Tribunal is of the considered opinion that the Ld.CIT(A) being the first Appellate Authority having jurisdiction coterminous with that of the Assessing Officer has to examine the material himself. Even though, Ld.CIT(A) called for Remand Report from the Assessing Officer the same was not examined by him. Hence, it is obvious that both authorities below have not examined the issue on merit. Therefore in these facts and circumstances, this Tribunal is of the considered opinion the matter needs to re-consider by the Assessing Officer. Accordingly the orders of both the authorities below are set aside and the entire issue raised by the assessee is remitted back to the file of the Assessing Officer. The Assessing Officer shall examine the matter afresh in the light of the material that may be filed by the assessee and decide the issue afresh in accordance with law after giving reasonable opportunity."

4. In the light of the above order, the present Writ Petition is allowed. No cost. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar(AD I)

//True Copy//

Sub Assistant Registrar

jen

To

The Recovery Officer - VII,
Company Range, IV,
4th Floor, 121,
Mahatma Gandhi Road,
Chennai - 600 034.

+1cc to M/s.Hema Muralikrishnan, Standing Counsel for Respondent, S.R.No.17300

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RLD(CO)
KKV/14/07/2020