IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.05.2020

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.Nos.7694 & 7695 of 2020
and
W.M.P.Nos.9053 & 9054 of 2020

M/s.Royal Computer and Electronics
Rep. by its Proprietor Mr.Md.Gani
No.16, 17, 18, Shop No.F-21
Kalyan Trade Centre
Wallers Road, Chintadripet
Chennai-600 002. ... Petitioner in both W.P.s

Vs.

1. The Commercial Tax Officer
   Chintadripet Assessment Circle
   CT Annexe Building
   No.1, Greams Road
   Chennai-600 006.

2. The Assistant Commissioner (ST)
   Madurai East Circle
   Madurai. ... Respondents in both W.P.s

Prayer:

Writ Petitions filed under Section Article 226 of the Constitution of India praying Writ of Certiorari, to call for the records of the 1st respondent in TIN.33660583717/2014-2015 and TIN.33660583717/2015-2016 respectively and quash the orders dated 30.08.2017 passed therein.

For Petitioner in both W.P.s : Mr.B.Raveendran

For Respondents in both W.P.s : Mrs.Dhana Madhri,
Government Advocate

COMMON ORDER

This matter is taken up for hearing through Video-Conferencing mode.

2. Heard the learned counsel for the petitioner and the learned Government Advocate who takes notice for the respondents.

3. Since the issues involved in these two writ petitions lie in a narrow compass, the main writ petitions themselves are taken up for final disposal, as this Court is inclined to remit the matter back to the Assessing

Officer to redo the assessment for the following facts and circumstances.

4. In both these writ petitions the challenge made is against the order of assessment passed relevant to the assessment years 2014-2015 and 2015-2016 dated 30.08.2017. The main grievance of the petitioner before this Court is that before passing the orders of assessment, the petitioner was not served with any notice of proposal. Apart from the above grievance, it is the case of the petitioner that these assessment orders, though passed on 30.08.2017, were never served on the petitioner till recently. It is stated that the petitioner applied for serving those copies of the assessment orders through his recent communication and consequently, obtained the same and filed these writ petitions by raising very many contentions.

5. The learned Government Advocate, based on instructions, submitted that the assessment orders were not served on the petitioner immediately after passing the same and on the other hand, it was served on them only recently.

6. Out of the several issues involved before the Assessing Officer, in the assessment proceedings, one such issue is admittedly, mismatch issue.

There is no dispute to the fact that this Court has already dealt with the said issue and passed a common order in a batch of cases reported in ***99 VST 343 (JKM Graphics Solution Private Limited vs. CTO)*** by giving certain directions and guidelines to the Assessing Officer as to how the mismatch issue has to be dealt with before passing the order of assessment on such issue. It is stated that pursuant to the said order of this Court, Circular No.3/2019 dated 18.01.2019 was also issued by the Revenue to all the Assessing Officers to keep the mismatch issue in abeyance.

7. Going by the above facts and circumstances and considering that one of the issues before the Assessing Officer is mismatch issue and that the same has to be dealt with in accordance with the guidelines/directions issued in ***JKM Graphics case***, further considering the fact that the petitioner was not heard before passing the orders of assessment and that the orders of assessment themselves were served on the petitioner only recently, this Court is of the view that interest of both parties will be protected if the matter is remitted back to the Assessing Officer to redo the assessment afresh on all issues by giving due opportunity of hearing to the petitioner.

8. Accordingly, both these Writ Petitions are allowed and the

impugned assessment orders are set aside. Consequently, the matter is remitted back to the Assessing Officer to redo the assessment on all issues after giving due opportunity of hearing to the petitioner. The petitioner shall treat the impugned orders themselves as notice of proposal and submit their reply before the Assessing Officer within a period of two weeks from the date of receipt of a copy of this order. On receipt of such reply, the Assessing Officer, while dealing with the mismatch issue shall follow the procedure/guidelines issued in ***JKM Graphics case*** and pass the assessment orders on that issue on merits in accordance with law. Insofar as the other issues are concerned, the Assessing Officer is directed to consider those issues afresh and pass orders on the same on merits and in accordance with law after considering the objections raised by the petitioner and also after hearing them in person. The whole exercise shall be done by the Assessing Officer as expeditiously as possible. No costs. Consequently, connected miscellaneous petitions are closed.

20.05.2020

mk/vsi

Speaking/Non-speaking
Internet:Yes/No
Index:Yes/No

K.RAVICHANDRABAABU.J.,

mk/vsi

To

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