IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 28.07.2023

CORAM

THE HON'BLE Mr. JUSTICE R. MAHADEVAN
AND
THE HON'BLE Mr. JUSTICE MOHAMMED SHAFFIQ

W.A.Nos.1929 & 1939 of 2023
AND
C.M.P.Nos.16584 & 16621 of 2023

1.The Assistant Commissioner (ST)
Rasipuram Assessment Circle
Rasipuram

2.The State Tax Officer
Attur (Rural) Assessment Circle
Attur .. Appellants in both WAs

Vs.

Tvl.Uzhavan & Co.
Rep. by its Partner V.Kavitha
No.58, South Thirumalai Giri
Kalappanayakkanpatti
Rasipuram 637 404 .. Respondent in both WAs

Writ Appeals filed under Clause 15 of Letters Patent Act, against the order dated 30.06.2021 passed in W.P.Nos.18071 & 18072 of 2020.

For Appellant : Mr.M.Venkateswaran
Special Government Pleader

For Respondent : Mr.Senniappan

COMMON JUDGMENT

(Judgment of the court was delivered by R. MAHADEVAN, J.)

These writ appeals have been filed against the common order dated 30.06.2021 passed by the learned Judge in W.P.Nos.18071 and 18072 of 2020.

2.According to the appellant / Revenue, the respondent company is a registered dealer on the books of the Assistant Commissioner (ST), Rasipuram Assessment Circle and subsequently, due to re-organisation of Assessment Circles from August 2019, the dealer was brought under the jurisdiction of the State Tax Officer, Attur (Rural) Assessment Circle as per G.O.Ms.No.30 dated 04.03.2019. It is further stated that the dealer-company is entrusted with Civil Works and being a Civil Works Contractor, they are liable to pay tax at the scheduled rates of the Tamil Nadu Value Added Tax Act, 2006. The monthly returns in Form-I submitted before the first appellant by the dealer in respect of assessment for the years 2013-2014 and 2014-2015 were scrutinised and the orders of deemed assessment were completed in accordance with Section 22(2) of the Act. The first appellant issued notices dated 10.01.2019 for revision under Section 27 of the Act, for which the dealer sought one month time for submission of reply. While the said applications were pending without passing any orders, the second appellant inferior in rank than that of the first appellant, passed orders of revision dated 10.01.2020. Challenging the same, W.P.Nos.18071 and 18072 of 2020 were filed by the dealer praying to set aside the orders of revision as being issued without jurisdiction and authority of law and contrary to the principles of natural justice.

3.One of the grounds raised in the writ petitions was that the notice dated 18.11.2019 with regard to the proposed assessment, said to have been served by the authorities have not been served properly on the respondent herein. Citing the same, the learned Judge held that one of the main grounds argued is on the aspect of non-service of notice prior to finalisation of assessment and that, the direct methods of service should first be exhausted and only in a situation where the same are found ineffective, the officials have to resort to the procedure under Section 19(1)(d), which is by way of affixture, and accordingly, allowed the writ petitions on the ground that the orders impugned therein were vitiated by lack of opportunity given to the dealer prior to finalisation of the same and set aside the orders impugned therein.

4.Challenging the common order passed by the learned Judge, the present appeals have been filed by the Revenue.

5.When these appeals were taken up, the learned counsel for the appellants / Revenue has submitted that the learned Judge simply set aside the orders impugned in the writ petitions finding fault with the mode by which the notices have been issued, without paving the way for the authorities to proceed further in the matter. He further submitted that the learned Judge ought to have remanded the matter for fresh consideration, if at all there is any violation of the principles of natural justice.

6.The learned counsel for the respondent/assessee has submitted that he has no objection for remanding the matter to the authority for considering the matter afresh and to pass orders on merits.

7.Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side, the common order dated 30.06.2021 passed by the learned Judge in the writ petitions and the orders dated 10.01.2020 passed by the second appellant relating to the assessment years 2013-2014 and 2014-2015 are set aside and the matter is remanded back to the Assessing Officer for fresh consideration. The Assessing Officer is directed to issue show cause notice to the assessee, grant sufficient time for filing objections and thereafter, pass appropriate orders, on merits and in accordance with law, after providing opportunity of being heard to the appellant. Such an exercise shall be completed by the authority concerned, within a period of eight weeks from the date of receipt of a copy of this judgment.

8.Both the writ appeals are disposed of, in the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

[R.M.D, J.] [M.S.Q, J.]
28.07.2023

Neutral Citation : Yes
gya

To
1.The Assistant Commissioner (ST)
Rasipuram Assessment Circle
Rasipuram

2.The State Tax Officer
Attur (Rural) Assessment Circle
Attur

R. MAHADEVAN, J.
AND
MOHAMMED SHAFFIQ, J.

gya

W.A.Nos.1929 & 1939 of 2023

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(2/2)