IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2023

CORAM :

The HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. Nos.4573 and 4575 of 2023 and
W.M.P. Nos.4575 and 4577 of 2023

Mark Studio India Pvt. Ltd.,
represented by its Director
Francis Bastiyan ... Petitioner in both W.P.s

vs

The Sales Tax Officer,
Valluvarkottam Assessment Circle,
IV Floor, Palaniappa Towers,
Greams Road,
Chennai – 600 006. ... Respondent in both W.P.s

Prayer in both W.Ps: Petitions filed under Article 226 of the Constitution of India praying to issue a writ of Certiorari calling for the records on the files of the respondent herein in TIN/33386279808/2015-16 dated 22.12.2022 and 24.01.2023 quash the same.

For Petitioner in both W.P.s : Mr.N.Prasad

For Respondent in both W.P.s: Mr.V.Prasanth Kiran,
Government Advocate

COMMON ORDER

By consent of both the parties, these writ petitions are taken up for final disposal in the admission stage itself.

2.The petitioner has challenged the impugned Assessment Orders, i.e., one dated 22.12.2022 and the other dated 24.01.2023 in respect of the very same assessment year 2015-16 on the ground of violation of principles of natural justice and on the ground of non application of mind by the respondent.

3.The petitioner had received a notice dated 14.10.2022 from the respondent prior to the passing of the impugned assessment orders and on receipt of the same, the petitioner requested sixty days time for submitting their reply through their Communication dated 14.11.2022. Even before a reply could be sent, the impugned assessment orders have been passed. Further on receipt of the first assessment order dated 22.12.2022, the petitioner had sent a reply dated 21.11.2022 to the respondent on 29.12.2022, which was received by the respondent on 30.12.2022. On receipt of the said reply, another assessment order has been passed, which is dated 24.01.2023 after acknowledging the reply sent by the petitioner, which is dated 21.11.2022 though the same was despatched by the petitioner on 29.12.2022 and it was received by the respondent on 30.12.2022.

4.There cannot be two assessment orders in respect of the very same assessment year, i.e. 2015-16. As seen from the documents filed along with this writ petition, it is clear that two assessment orders have been passed by the respondent, i.e. one dated 22.12.2022 and the other dated 24.01.2023. The same is also not disputed by the learned Government Advocate appearing for the respondent. No personal hearing was also afforded to the petitioner and in the first assessment order dated 22.12.2022, the request for adjournment sought for by the petitioner prior to the passing of the said assessment order was also not considered by the respondent.

5.It is very clear that the principles of natural justice has been violated by the respondent and by total non application of mind, two assessment orders have been passed by the respondent, which is arbitrary and illegal.

6.In the result, the impugned assessment orders dated 22.12.2022 and 24.01.2023 in respect of the assessment year 2015-16 are hereby quashed and the matter is remanded back to the respondent for fresh consideration, on merits and in accordance with law. The respondent is directed to pass final orders, after adhering to the principles of natural justice and after affording a personal hearing to the petitioner within a period of twelve weeks from the date of receipt of a copy of this order.

7.With the aforesaid direction, these writ petitions stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

15.02.2023

Index:Yes/No
vga

To

The Sales Tax Officer,
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ABDUL QUDDHOSE, J.

vga

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