IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.07.2023

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.Nos. 8913, 9000, 9001, 9004, 9006, 8914 and 8996 of 2021
and
W.M.P.Nos.9448, 9525, 9526, 9530, 9532, 9533, 9447, 9528, 9546, 9535, 9534, 9545, 9444 and 9446 of 2021

M/s. Steel Shoppe,
Represented by its Proprietor Mahendra Kumar Singhi,
Sy.No.28/2D 1E,
National Highway – 7,
Opp. P.M.C.College,
Nallaganakothapalli Village,
Shoolagiri, Hosur 635 117. ... Petitioner in all petitions

v.

The Assistant Commissioner (ST)
Hosur (North)-1,
Commercial Tax Department,
Government of Tamil Nadu,
Near Old Bus Stand,
Krishnagiri Bye Pass Road,
Hosur – 635 109. ... Respondent in all petitions

Common Prayer: Writ petitions filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari to quash the Assessment order vide TIN No.33823364716, dated 30.06.2017, for Assessment Years 2008-09, 2009-10, 2010-11, 2011-12, 2012-13, 2013-14, 2014-15 respectively passed by the 1st respondent, and to quash the Notice vide TIN No.33823364716, dated 15.02.2021, for Assessment Years 2008-09, 2009-10, 2010-11, 2011-12, 2012-13, 2013-14, 2014-15 respectively passed by 1st respondent and to withdraw all recovery notices issued by 1st respondent.

For Petitioner in all petitions : Mr.P.Jitendra Kumar

For Respondent in all petitions : Mr.V.Prashanth Kiran, Government Advocate

COMMON ORDER

The present writ petitions have been filed challenging the impugned orders of assessment as well as the orders rejecting the rectification petition for the following assessment years:

S.No.	*Writ Petition Nos.*	*Assessment Years*
1.	*8913/2021*	*2014-15*
2.	*8914/2021*	*2009-10*
3.	*8996/2021*	*2008-09*
4.	*9000/2021*	*2012-13*
5.	*9001/2021*	*2013-14*
6.	*9004/2021*	*2011-12*
7.	*9006/2021*	*2010-11*

2. This is the second round of litigation. In the earlier round of litigation, the petitioner challenged the orders of assessment in W.P.Nos.29955 to 29961 and 29962 to 29968 of 2015 dated 12.09.2016. This Court was pleased to dispose of the same by setting aside the impugned assessment orders with a direction that assessment must be completed after considering all the documents to be submitted by the petitioner. The relevant portions of the order of this Court is extracted hereunder:

> *"15.Thus, for all the above reasons, this Court is fully convinced that the impugned assessment has to be done in a proper manner after considering all the documents to be submitted by the petitioner. The petitioner shall be furnished the documents sought for and the petitioner is also entitled to produce the books of accounts, etc.*
>
> *16. In the result, the writ petitions are allowed and the impugned orders are set aside and the matters are remanded back to the respondent for fresh consideration who shall afford an opportunity of personal hearing to the representative of the petitioner and the petitioner shall be permitted to furnish relevant documents, if any, and re-do the assessment in accordance with law. No cost."*

3. It is submitted by the learned Government Advocate for the respondent that pursuant to the above order of this Court, personal hearing was afforded and the authorized representative had appeared in person on 12.04.2017 and 26.04.2017 and produced the relevant documents including original purchase and sale bill along with photo copies of bank statement. The

proposal was however confirmed on the premise that there was no proof for movement of good such as goods inward and outward register, goods arrival chitta vehicle number in which goods sent / received with date as per the invoice and payment details for the purchase.

4. It is submitted by the learned counsel for the petitioner that the assessment orders dated 30.06.2017 was not served. It is only after the recovery notice dated 03.09.2020 was issued pursuant to the said orders of assessment attaching the bank account, the petitioner came to know that the assessment order was made. Thereafter, petitioner filed a rectification petition dated 02.12.2020, wherein, it was submitted that the impugned orders of assessment suffers from error apparent on the face of the record.

4.1. The above rectification petition was rejected vide proceedings dated 15.02.2021 (Titled as “Notice”) by merely stating that there is no error apparent on the face of the record.

5. It was submitted that the rectification petition has been rejected without considering any of the material / submission made and thus non speaking, thereby, violating the principle of natural justice vide proceedings dated 15.12.2021.

6. The learned counsel for the respondent would fairly submit that the rectification petition may be set-aside and if a fresh rectification petition is filed, would be considered the same, which was agreed to by the petitioner who would submit that they may be granted six weeks time to file a fresh rectification petition.

7. Recording the same, the writ petitions stands disposed of by setting aside the impugned proceedings dated 15.12.2021. The petitioner is at liberty to file a fresh rectification petition along with all materials and documents in support of the same within a period of six weeks from the date of receipt of a copy of this order. On receipt of such rectification petition, the respondent shall dispose of the rectification petition after affording reasonable opportunity of hearing, within a period of 8 weeks from the date of receipt of the rectification

petition, in accordance with law. The recovery proceeding shall be kept in abeyance until then. The above protection against recovery is subject to the condition that the petitioner files rectification petition within a period of six weeks from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed. No costs.

06.07.2023

Internet: Yes/No
Index: Yes/No
Speaking order/Non speaking order
shk

To:

The Assistant Commissioner (ST)
Hosur (North)-1,
Commercial Tax Department,
Government of Tamil Nadu,
Near Old Bus Stand,
Krishnagiri Bye Pass Road,
Hosur – 635 109.

MOHAMMED SHAFFIQ, J.

Shk

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