BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.11.2024

CORAM

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD)Nos.26038 and 26039 of 2024
and
W.M.P.(MD)Nos.22081, 22082, 22115 and 22116 of 2024

W.P.(MD)No.26038 of 2024:

M/s.RPP READY MIX,
Represented by its Partner,
P.Selvasundaram ...Petitioner

Vs

1.The Additional Chief Secretary / Commissioner,
Commercial Taxes,
Ezhilagam, Chepauk,
Chennai – 600 005.

2.The Assistant Commissioner (ST),
Kodumudi Assessment Circle,
Commercial Taxes Building,
Karur – 639 001. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorari, calling for the records relating to the issuance of impugned order No. TIN: 33762904969/2012-2013 dated 29.07.2024 on the file of the second respondent and to quash the same.

For Petitioner : Mr.J.V.Niranjan
For M/s.Niranjan and Associates

For Respondents : Mr.R.Suresh Kumar
Additional Government Pleader

W.P.(MD)No.26039 of 2024:

M/s.RPP READY MIX,
Represented by its Partner,
P.Selvasundaram ...Petitioner

Vs

1.The Additional Chief Secretary / Commissioner,
Commercial Taxes,
Ezhilagam, Chepauk,
Chennai – 600 005.

2.The Assistant Commissioner (ST),
Kodumudi Assessment Circle,
Commercial Taxes Building,
Karur – 639 001. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorari, calling for the records relating to the issuance of impugned order No. TIN: 33762904969/2013-2014 dated 29.07.2024 on the file of the second respondent and to quash the same.

For Petitioner : Mr.J.V.Niranjan
For M/s.Niranjan and Associates

For Respondents : Mr.R.Suresh Kumar
Additional Government Pleader

COMMON O R D E R

Mr.J.V.Niranjan, for M/s.Niranjan and Associates, learned counsel for the petitioner and Mr.R.Suresh Kumar, learned Additional Government Pleader, for the respondents.

2. These Writ Petitions have been filed challenging the order of the second respondent dated dated 29.07.2024 for the period 2012-2013 and 2013 and 2014.

3. The primary contention of the learned counsel for the petitioner is that in spite of remittal of the matter, the authority had not passed orders in compliance with the direction given by this Court in its order dated 31.07.2017, as also the appellate authority order dated 07.10.2022.

4. From the records, it could be seen that, this Court vide order dated 31.07.2017, in W.P.Nos.18434 and 18435 of 2017, had remitted matters to the second respondent herein after setting aside the order of assessment with a direction to the second respondent to afford an opportunity of personal hearing to the petitioner and also to consider the

affidavits filed by the petitioner customers and thereafter redo the assessment in accordance with law.

5. Pursuant to the said direction, an order of assessment was passed by the second respondent on 22.11.2019 which came to be challenged by the petitioner before the appellate authority. The appellate authority by order dated 07.10.2022, having found that the direction issued by this Court in the aforesaid Writ Petitions had not been complied with, again directed the second respondent to redo the entire exercise in compliance with the orders passed by this Court in its order dated 31.07.2017. Again an order of assessment had been made bereft of any material facts and without considering the affidavits filed by the petitioner as per the Court order dated 31.07.2017.

6. Today, when the matter was taken up for hearing, the learned Additional Government Pleader for the respondents produced two communications dated 02.01.2024 and 19.02.2024, calling upon the petitioner to produce the affidavits and other document materials in support of their contentions. It is the case of the respondents that in spite of communications, the petitioner had not produced the affidavits and

hence the impugned order of assessment has been passed. However, the learned counsel for the petitioner would submit that he has sought time for producing the documents, but, without waiting for the time sought for, the second respondent had passed the impugned order.

7. A perusal of the impugned order would also show that the second respondent had not carried out or redone the assessment, but had held that no objections have been received pursuant to the notices given by the second respondent and therefore had reconfirmed the earlier assessment order which has been set aside by this Court. In my considered view, it would not be the exercise as directed by this Court in its order dated 31.07.2017. At this juncture, the learned counsel for the petitioner would submit that within a period of two weeks from today, he will place all records before the second respondent viz., the relevant affidavits that were filed before the second respondent during the original proceedings which has also been acknowledged to by the learned Additional Government Pleader appearing before this Court in the Writ Petition.

8. Recording the said submission, the petitioner is directed to produce all the relevant materials on or before 27.11.2024 before the second respondent and the second respondent shall redo the order of assessment in the manner known to law, within a period of four weeks thereafter, after affording an opportunity of personal hearing to the petitioner.

9. In fine, the orders impugned are set aside and the matter is remitted back to the second respondent to comply with directions given above. Accordingly, the Writ Petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

11.11.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr
<u>Note: Issue Order Copy on 13.11.2024.</u>

To:

1.The Additional Chief Secretary / Commissioner,
Commercial Taxes,
Ezhilagam, Chepauk,
Chennai – 600 005.

2.The Assistant Commissioner (ST),
Kodumudi Assessment Circle,
Commercial Taxes Building,
Karur – 639 001.

K.KUMARESH BABU, J.

Nsr

W.P.(MD)Nos.26038 and 26039 of 2024

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