IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:28.04.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.12834 of 2015

M/s.DLF Southern Homes Pvt.Ltd
rep by Asst.G.M.
S.No.184/1, No.31, Thazhambur Village,
Navalur,Kanchipuram District 603 103 ... petitioner

Versus

The Assistant Commissioner (CT)
Chengalpattu Assessment Circle,
No.15-B, First Floor, 1st Main Road,
Anna Nagar, Chengalpattu 603 001 ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari,to call for the records of the Respondent in the impugned Order TIN No.33160742587/2010-11 dated ...03.2015, quash the same as it violates the principles of natural justice and contrary to the law laid down by this Hon'ble Court in the case of ICMC Corporation Ltd Vs CESTAT (2014) 302 ELT 45 insofar as the Petitioner is concerned.

For petitioner :Mr.P.S.Raman,Senior Counsel for K.vaitheeswaran
For Respondent :Mr.Manoharan Sundaram
Additional Government Pleader (T)

ORDER

This impugned order passed by Assistant Commissioner (CT), Chengalpattu Assessment Circle is no doubt appealable before the Appellate Authority. But the learned senior counsel appearing for the petitioner, assailing the impugned order on the ground that there has been violation of principles of justice, would submit that the notice issued by the respondent dated 04.03.2015 clearly shows that the petitioner is entitled to be personally heard on his appearance on any of the working days within 15 days from the receipt of the notice. Reminding the same, a letter was given to the respondent but ignoring it, the impugned order has been passed. He has also further submitted that although the petitioner has paid a sum of Rs.2,04,747/- once again on 23.04.2015 they paid another sum of Rs.2 crores when he is liable to pay the disputed input tax credit of Rs.3.40 lakhs. On this basis, he would further submit that had there been a personal hearing provided to the petitioner, he would not have ventured to assail the impugned order under Article 226 of the

Constitution of India. All that he sought for is the personal hearing without being influenced by the impugned order passed by the Assistant Commissioner (CT), Chengalpattu Assessment Circle.

2.Mr.Manohar Sundaram, Additional Government Pleader appearing for the respondent submitted that the petitioner was offered a chance to present his case personally but he has not made use of the same. Therefore, the impugned order has been rightly passed.

3.This Court is unable to countenance the said submission for the reason that as per the notice dated 08.03.2013, the petitioner was asked to present his case within 15 days from the date of receipt of the notice personally. The petitioner, by reply filed on 26.03.2015, requested the assessing officer to provide the personal hearing for offering the remarks. It appears that the said request has not been considered.

4.Therefore, on the limited scope that the petitioner was not offered personal hearing as indicated by the assessing officer in his notice dated 04.03.2015, this Court, without going to the merits of the matter and keeping in mind that the petitioner had already paid Rs. 2,04,747 /-, along with Rs.2 crores remands the matter back to the respondent to provide personal hearing and pass appropriate orders on merits and in accordance with law. It is needless to mention that the matter is remanded back only on limited issue as to whether the petitioner company is entitled for input tax credit and all other issues can be agitated only before the appropriate forum.

5. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

nvi/mmi
To
The Assistant Commissioner (CT)
Chengalpattu Assessment Circle,
No.15-B, First Floor, 1st Main Road,
Anna Nagar,Chengalpattu 603 001

1 cc to Mr.K.Vaitheeswaran ,Advocate, SR.No.23572
1 cc to Spl Government Pleader,Sr.No23609

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ssi(co)pmk.21.5.2015