IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.06.2015

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.Nos.15910 and 15911 of 2015
and M.P.Nos.1 of 2015

Tvl.Marz Furniture Centre Pvt. Ltd.
rep. by its Director
Mr.Shahjahan Shaik Dawood
Old No.41 New BNo.116
Nelson Manickam Road
Aminijikarai Chennai-29 ... Petitioner in both WPs

Vs

The Assistant Commissioner (CT) (FAC)
Arumbakkam Assessment Circle
7th Floor Dowlath Tower
No.59 Taylors Road
Chennai-10 ... Respondent in both WPs.

Writ Petitions filed under Article 226 of the Constitution of India seeking a writ of certiorari to call for the records on the file of the respondent in his impugned proceedings in TIN No.33481466419/2013-14 and 2014-15 respectively dated 5.5.2015 and quash the same and direct the respondent to redo the assessment after giving personal hearing

For petitioner : Mr.J.Ravikumar
For respondent : Mr.Manoharan Sundaram, AGP(T)

COMMON ORDER

Heard the learned counsel for the petitioner and Mr.Manohraan Sundaram, learned Additional Government Pleader (Taxes), who takes notice for the respondent.

2. These writ petitions are directed against the orders of the respondent dated 05.05.2015.

3. The learned counsel for the petitioner inter-alia contended that the impugned orders suffer from non application of mind on the part of the respondent inasmuch the respondent merely relying on D3

proposal/report of the Enforcement Wing Officer, without even considering the objections supported with documents filed by the petitioner, wrongly passed the impugned orders. Adding further, the learned counsel for the petitioner would submit that on going through the pre-assessment notices, the replies and the impugned orders, one can easily assert that the respondent has not given sufficient reasons for rejecting the objections filed by the petitioner. Further, according to him, from a reading of the impugned proceedings, it is crystal clear that the Assessing Officer has committed serious error, inasmuch as when the petitioner has filed detailed replies along with supporting documents, the Assessing Officer has mentioned in the impugned proceedings that the petitioner to substantiate his contention has not filed any documentary evidence. Therefore, the stand taken by the respondent is liable to be interfered with.

4. On the other hand, Mr.Manoharan Sundaram, learned Additional Government Pleader (Taxes) appearing for the respondent, while submitting that the impugned orders which are challenged by the petitioner before this Court are appealable in nature and therefore, the petitioner has got an effective alternative remedy before the appellate authority, has no reply to support the impugned orders with regard to violation of principles of natural justice in not giving personal hearing to the petitioner, which is mandatory under the statute.

5. Therefore, since the learned counsel for the petitioner has established before this Court that the respondent has committed error in not providing personal hearing to the petitioner before passing the impugned orders, on this sole ground, the impugned orders dated 05.05.2015 are set aside and the matters are remitted back to the respondent to pass appropriate orders afresh, after giving personal hearing to the petitioner.

The writ petitions are allowed. No costs. Connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

The Assistant Commissioner (CT) (FAC)
Arumbakkam Assessment Circle
7th Floor Dowlath Tower
No.59 Taylors Road
Chennai-10.

+2ccs to Mr.J Ravikumar, Advocate, S.R.No.26933

+1cc to Mr.Spl. Government Pleader, Advocate, S.R.No.27176

AD(CO)
EU(06/07/2015)

W.P.Nos.15910 and 15911 of 2015