IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.7.2016

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition Nos.14412 to 14414 of 2014

and MP.Nos.1, 1 and 1 of 2014

M/s.Santha Build-Tech India Pvt.Ltd.,
rep.by Mr.M.Srinivasan, Authorized
Representative ...Petitioner

Vs

The Assistant Commissioner (CT) (Addl.)
(FAC), Guindy Assessment Circle,
Greenways Road, Chennai-28. ...Respondent

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorarified Mandamus to call for the records of the respondent respectively in TIN 33140906625/2010-11, TIN 33140906625/ 2011-12 and TIN 33140906625/2012-13, quash the orders dated 30.4.2014 with a direction to the respondent to re-do the assessments on merits by affording an opportunity of personal hearing as sought for by the petitioner.

For Petitioner : Mr.Md.Ghafoorur Rahman
For Respondent : Mr.S.Kanmani Annamalai,
Additional Government Pleader
in all WPs

COMMON ORDER

Heard Mr.Md.Ghafoorur Rahman, learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader appearing for the respondent. By consent, the writ petitions are taken up for final disposal.

2. The only ground, on which, the impugned orders have been challenged, is that despite a specific request made by the petitioner for the grant of an opportunity of personal hearing, the same was not granted.

3. I have perused the explanation given by the petitioner to the pre-assessment notices wherein in paragraph 5, a specific request has been made to afford an opportunity of personal hearing and to consider their contentions with reference to the books of accounts that will be produced at the time of hearing. One more request was made by the petitioner to the Assessing Officer to complete the assessment uninfluenced by the report of the officials of the Enforcement Wing.

4. The issue of affording an opportunity of personal hearing was considered by this Court in the case of S.R.C. Projects Pvt. Ltd. Vs. Commissioner of Commercial Taxes, Chennai [reported in (2010) 33 VST 333] wherein a Division Bench observed that when a circular by the Commissioner casts an obligation on the Assessing Authority to give personal hearing to the assessee when sought for, an order of assessment passed without affording a personal hearing, when sought for, needs to be set aside. The impugned orders have been passed in utter violation of the direction issued by the Hon'ble Division Bench. Therefore, on this technical ground, the impugned orders are liable to be set aside.

5. Accordingly, the writ petitions are allowed, the impugned orders are set aside and the matters are remitted back to the respondent for fresh consideration. The respondent shall afford an opportunity of personal hearing to the petitioner and thereafter proceed to complete the assessments in accordance with law. No costs. Consequently, the above WMPs are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To
The Assistant Commissioner (CT) (Addl.) (FAC),
Guindy Assessment Circle,
Greenways Road, Chennai-28.

+1 cc to M/s.Md.Ghafoorur Rahman Advocate sr.39129
+1 cc to Special Government pleader Taxes sr.38492

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