IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition Nos.43633 & 43634 of 2016
and
W.M.P.Nos.37448 & 37449 of 2016

Western Thomson India Limited,
Rep. by its Director,
S.Subramanian,
GA & GB Riviera Park,
No.11, 4th Main Road Extension,
Kotturpuram,
Chennai - 600 085. ... Petitioner
(in W.P.Nos.43633 & 43634 of 2016)

Vs.

The Assistant Commissioner (CT),
Kotturpuram Assessment Circle,
No.46, Greenways Road,
Chennai - 600 028. ... Respondent
(in W.P.Nos.43633 & 43634 of 2016)

Common Prayer:

Writ petition Nos.43633 & 43634 of 2016 filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the impugned proceedings of the respondent passed in TIN/33781602151/2013-14, & TIN/33781602151/2014-15 dated 31.10.2016 and quash the same and further direct the respondent to re-do the assessment after examination of the books of accounts and after providing personal hearing, respectively.

For Petitioner : Mr.N.Murali
(in W.P.Nos.43633 & 43634 of 2016)

For Respondent : Mr.S.Kanmani Annamalai
Additional Government Pleader (Tax)
(in W.P.Nos.43633 & 43634 of 2016)

C O M M O N O R D E R

In both these writ petitions, the petitioner is aggrieved against the orders of assessment passed on 31.10.2016 separately in respect of the assessment years 2013-2014 and 2014-2015.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader (Tax) appearing for the respondent.

3. The main grievance of the petitioner before this Court, apart from challenging the assessment orders on merits, is that the petitioner was not given personal hearing before passing the impugned orders, even though such opportunity was specifically requested by the petitioner in their reply to the notice of proposal.

4. Therefore, it is contended before this Court that the Assessing Officer has erroneously passed the assessment orders, without hearing the petitioner and getting the clarification on each issue, over which the present assessment orders have been made. The counter affidavit is filed by the respondent, wherein, it is stated that no request was made by the petitioner for grant of personal hearing and such request was made as the first time before this Court. Therefore, it is stated in the counter that there is no violation of principles of natural justice.

5. Perusal of the reply to the notice of proposal and the very impugned orders of assessment would undoubtedly show and indicate that the statement made in the counter affidavit in respect of personal hearing is not factually correct. The petitioner in their reply dated 06.06.2016 to the notice of proposal, has specifically sought for personal hearing. The said fact is also admitted by the Assessing Officer while passing the orders of assessment. However, no reason is stated in the impugned orders, as to why such opportunity was not given to the petitioner. At this juncture, it is to be noted that the Commissioner of Commercial Taxes, Chepauk, Chennai -5, vide a Circular No.7/2014, dated 03.02.2014, has instructed the Assessing Officer to provide such opportunity of personal hearing irrespective of the fact, whether such request was made by the dealer or not. The above guidelines issued by the Commissioner is also not taken into consideration by the Assessing Officer before passing the orders of assessment.

6. Therefore, this Court is fully satisfied that the orders of assessment impugned in these writ petitions cannot be sustained, solely on the ground of violation of principles of natural justice. Accordingly, without expressing any view on the

merits of the assessment, these writ petitions are allowed and the impugned orders are set aside. Consequently, the matter is remitted back to the Assessing Officer to re-do the assessment, after giving due opportunity of personal hearing to the petitioner. Such exercise shall be done by the Assessing Officer within a period of six weeks from the date of receipt of a copy this order. No costs. Connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

mk/ms

To

The Assistant Commissioner (CT),
Kotturpuram Assessment Circle,
No.46, Greenways Road,
Chennai - 600 028.

+4cc's to Mr.N.Murali, Advocate, S.R.Nos.40939 & 44559
+1cc to the Special Government Pleader(T), S.R.No.44655

W.P.Nos.43633 & 43634 of 2016

NR(CO)
CA(03/07/2017)