IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.08.2018

CORAM :

THE HONOURABLE MR.JUSTICE K. RAVICHANDRA BABU

W.P.No.20583 of 2018
and
WMP.No.24195 of 2018

M/s. Abirami Builders,
Rep. by its Partner, No. 7/88A, First Floor,
Pillaiyarkoil Street, Thiruthieri,
Singaperumal Koil,
Kancheepuram District. ... Petitioner

Vs.

The Assistant Commissioner (ST) (FAC),
Chengalpattu Assessment Circle,
No.16-A, First Main Raod, Anna Nagar,
Chengalpattu – 603 001. ... Respondent

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for records of the respondent and quash the proceedings in TIN No. 33886305335/2014-15 dated 05.07.2018 as illegal and against principles of natural justice and against the various judicial decision of the Apex Court and Madras High Court and direct the respondent to pass fresh orders as per law after providing an opportunity of personal hearing to the petitioner.

For Petitioner : Mr.C.Baktha Siromoni
For Respondent : Mrs.G.Dhana Madhri
Government Advocate (T)

O R D E R

Mrs.G.Dhana Madhri, learned Government Advocate takes notice for the Respondent. By consent of the parties, the writ petition itself is taken up for final disposal at the admission stage.

2. The petitioner-Assessee is aggrieved against the order of assessment dated 05.07.2018 passed by the respondent herein in respect of assessment year 2014-15. The main grievance of the

petitioner before this Court is that the Assessing Authority passed the order of assessment, which includes imposition of penalty, without following the principles of natural justice, since an opportunity of personal hearing sought for by the petitioner, while furnishing the reply to the notice of proposal, has not been afforded.

3. The learned counsel for the petitioner submitted that even though the respondent has considered the reply filed by the petitioner while passing the order of assessment, he failed to consider the request of the petitioner made in the said reply for a personal hearing, in case, if he is not satisfied with the said explanation.

4. The learned Government Advocate (Tax) submitted that though the Assessing Authority has considered the reply and passed the order of assessment, the fact remains that no personal hearing was given to the petitioner.

5. Upon hearing both sides and perusing the materials placed before this Court, it is evident that the Assessing Authority considered the reply furnished by the petitioner to the notice of proposal and however, has chosen to reject the same, as not satisfactory. The Assessing Authority has also imposed the penalty. As rightly submitted by the learned counsel for the petitioner, when the Assessee has sought for personal hearing, if the reply submitted by them is not satisfactory, in all fairness, the Assessing Authority, before passing the order of assessment, should have given an opportunity of personal hearing to the petitioner, especially, when such request was specifically made in writing in the reply to the notice of the proposal itself.

6. Considering the above stated facts and circumstances and without expressing any view on the merits of the contentions made by the petitioner as against the merits of the assessment, this Court is inclined to set aside the impugned order of assessment. Accordingly, this writ petition is allowed and the impugned order of assessment is set aside. Consequently, the matter is remitted back to the Assessing Authority for passing fresh order of assessment once again, after affording an opportunity of personal hearing to the petitioner. It is open to the petitioner to raise all the contentions as raised in this writ petition before the Assessing Authority at the time of personal hearing. The Assessing Authority shall pass fresh order of assessment as stated supra, within a period of six weeks from

the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mk

To

The Assistant Commissioner (ST) (FAC),
Chengalpattu Assessment Circle,
No.16-A, First Main Raod, Anna Nagar,
Chengalpattu - 603 001.

+1cc to Mr.C.Baktha Siromoni, Advocate, S.R.No.55575
+1cc to the Special Government Pleader(T), S.R.No.55111

W.P.No.20583 of 2018

CA(CO)
CS/31/08/18