IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2018

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.8745 & 8746 of 2017
and W.M.P.Nos.9594 & 9595 of 2017

W.P.No.8745 of 2017

M/s.Sakthi Ferro Alloys (India)
Private Limited, Rep. by its
Director, A.R.Divakar,
Old Door No.26, New No.18,
Loganathan Nagar, Second Street,
Choolaimedu, Chennai-600 094. ... Petitioner

Vs.

The Assistant Commissioner,
Commercial Taxes Department,
Vadapalani Assessment Circle,
No.1, Greams Road, Annexure Building,
Chennai-600 006. ... Respondent

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, to call for the entire records relating to the order dated 15.03.2017 made CST No.844426/2014-15 on the file of the respondent herein and quash the same and direct the respondent to pass assessment order afresh after affording an opportunity of personal hearing as contemplated under Section 22 (4) of Tamil Nadu Value Added Tax Act, 2006.

W.P.No.8746 of 2017

M/s.Sakthi Ferro Alloys (India)
Private Limited, Rep. by its
Director, A.R.Divakar,
Old Door No.26, New No.18,
Loganathan Nagar, Second Street,
Choolaimedu, Chennai-600 094. ... Petitioner

Vs.

The Assistant Commissioner (CT),
Vadapalani Assessment Circle,
PAPJM Building Annexe,
Greams Road, Chennai-600 006. ... Respondent

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, to call for the entire records relating to the order dated 06.03.2017 made in TIN : 33791354253/2012-13 on the file of the respondent herein and to quash the same.

For Petitioner : Ms.M.Sudha
for Mr.C.Munusamy

For Respondent : Mr.M.Hariharan,
Additional Government Pleader

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ORDER

Heard Ms.M.Sudha, learned counsel for Mr.C.Munusamy, learned counsel for the petitioner and Mr.M.Hariharan, learned Additional Government Pleader for the respondents.

2. The petitioner has filed these writ petitions challenging the orders of assessment passed by the respondents dated 15.03.2017 and 06.03.2017, under the provisions of the Central Sales Tax Act, 1956 for the assessment years 2014-15 and 2012-13 respectively. Though the petitioner has stated that the objections filed by the petitioner dated 02.03.2017 and 19.12.2016 were not considered and orders were passed, the said contention does not merit consideration, as the respondent has considered the objections and passed speaking orders.

3. On a perusal of the impugned assessment orders, I find that wherever relief can be granted to the petitioner, the Assessing Officer has rightly granted relief. However, the only mistake that appears to have been committed by the respondents is not affording an opportunity of personal hearing, in spite of request made by the petitioner. This being a statutory requirement, the respondents could not have dispensed it.

4. Considering the fact that the writ petitions are pending since 2017 and an interim order is also operating, this Court is of the view that one more opportunity can be granted to the assessee. However, this Court is not inclined to set aside the impugned assessment orders for such reason, as already pointed

out that the objections raised by the petitioner have been considered by the respondents and the respondents have passed speaking orders. However, in respect of such of these issues, where the petitioner had not been granted relief largely due to non production of requisite documents, the respondents can be directed to reconsider the petitioner's case.

5. Accordingly, these writ petitions are disposed of by directing the petitioner to treat the impugned proceedings as show cause notices and submit their further objections to the same within a period of fifteen days from the date of receipt of a copy of this order. The respondents shall fix a date for personal hearing, hear the petitioner or their authorized representatives in person and redo the assessments in accordance with law under such of those heads, where the petitioner produces additional documents or materials. No costs. Consequently, connected miscellaneous petitions are closed.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

abr
To

1.The Assistant Commissioner,
Commercial Taxes Department,
Vadapalani Assessment Circle,
No.1, Greams Road, Annexure Building,
Chennai-600 006.

2.The Assistant Commissioner (CT),
Vadapalani Assessment Circle,
PAPJM Building Annexe,
Greams Road, Chennai-600 006.

+1 CC to Spl. Govt. Pleader sr 31450.
+1 CC to Mr.C. Munusamy, Advocate sr 31369.

W.P.Nos.8745 & 8746 of 2017

VGII(CO)
SP(29/05/2018)