IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:12.06.2018

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THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P.Nos.9602 to 9607 of 2018
W.M.P.Nos.11520 to 11525 of 2018

Firm Foundations
Represented by its Proprietor
C.Kasturi Raj,
93, 4th Main Road, Q Block,
Anna Nagar, Chennai-102. .. Petitioner in all WPs

Vs.

The Assistant Commissioner (ST),
Aminjikarai Assessment Circle,
50F, First Avenue,
Anna Nagar East, Chennai-102. .. Respondent in all WPs

Petitions filed under Article 226 of The Constitution of India praying for issuance of a writ of Certiorarified Mandamus, calling for the records on the file of the respondent herein in his TIN 33461021588/2010-11, 2011-12, 2012-2013, 2013-14, 2014-15, 2015-16 respectively, dated 02.03.2018, to quash the same with the direction to redo the assessment after providing opportunity of being heard along with their objection dated 14.02.2018.

For Petitioner .. Mr.R.Kumar
(in all Wps)

For Respondents.. Mr.M.Hariharan
(in all Wps) Addl. Govt. Pleader

COMMON ORDER

Since the identical issues raised in the present writ petitions, they are taken up together and being disposed of by this common order at the admission stage itelf.

2. These writ petitions have been filed challenging the Assessment Orders in respect of Assessment Years 2010-11, 2011-12, 2012-13, 2013-14, 2014-15 and 2015-16 respectively. The petitioner is a registered dealer under the provisions of Tamil Nadu Value Added Tax Act, 2006 and also under the provisions of Central Sales Tax Act, 1956.

3. The grievance of the petitioner inter alia is that the respondent has passed the impugned orders of assessment without considering the materials placed for consideration by the petitioner along with their objections. In addition to that, the grievance of the petitioner is that no opportunity of personal hearing was granted to the petitioner before Assessment Orders were passed.

4. When the matter is taken up for hearing, the learned counsel for the petitioner would submit that as per the Circular No.7/2014, dated 03.02.2014, issued by the Principal Secretary/Commissioner of Commercial Taxes, Chepauk, Chennai- 5, the respondent is duty bound to afford a personal hearing to the petitioner irrespective of whether the petitioner has asked for the same or not. Therefore, he submitted that the impugned orders are liable to be set aside solely, on the ground of violation of principles of natural justice.

5. He would also draw the attention of this Court to the order passe by the learned Judge of this Court in W.P.No.21.03.2017, wherein the learned Judge has set aside the Assessment Orders only on the ground that no opportunity of personal hearing was granted to the assessee and therefore, remitted the matter back to the authority for grant of personal hearing to the assessee.

6. In view of the decision of the learned Judge and also the Circular issued by the department itself, this Court is of the considered view that the impugned Assessment Orders in these writ petitions are liable to be set aside on the sole ground that the petitioner/assessee was not granted an opportunity of personal hearing. Therefore, the matter is remitted back to the respondent and the respondent is directed to grant an opportunity of personal hearing to the petitioner and thereafter, on consideration of the objections to be made by the assessee in respect of these assessment years, which is the subject matter of the present writ petitions and pass approppriate orders thereon.

7. Accordingly, all these Writ Petitions stand allowed only on this above stated limited ground and the other grounds which arise in the writ petitions are left intact for consideration by the respondent. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/--

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

The Assistant Commissioner (ST),
Aminjikarai Assessment Circle,
50F, First Avenue,
Anna Nagar East, Chennai-102.

+1cc to Mr.R.Kumar, Advocate Sr.No.36669
+1cc to Government Pleader SR.No.37634

sm:4.7.2018

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