IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.Nos.23211 to 23213 of 2018
and
WMP.Nos.27108 to 27110 of 2018

Shriram Metal and Alloys Pvt. Limited
Represented by its Director G.Shriram
No.127/3, Sadayankuppam Road,
Vaikkadu Village,Manali,Chennai-600 103. ..Petitioner in all WPs

Vs

The Assistant Commissioner (ST)
Manali Assessment Circle
No.5/79, 5th Main Road,
K.K.D. Nagar,
Kodungaiyur, Chennai-600 118. ..Respondent in all WPs

Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records on the files of the respondent herein in his TIN/33041081474/2013-2014, 2014-2015 and 2015-2016 respectively, dated 31.07.2018 and quash the same, with a direction to re-do the assessment after providing an opportunity of being heard along with their objection dated 02.08.2018.

For Petitioner : Mr.R.Kumar
(in WP Nos.23211 to 23213 of 2018)
For Respondent : Mr.Master Ganesh
Government Advocate (Tax)
(in WP Nos.23211 to 23213 of 2018)

C O M M O N O R D E R

Mr.Master Ganesh, learned Government Advocate (Tax) takes notice for the respondent. By consent of the parties, these main writ petitions are taken up for final disposal.

2. In all these writ petitions, the petitioner is one and the same. The petitioner is aggrieved against the orders of

assessment dated 31.07.2018 passed in respect of the assessment years 2013-2014, 2014-2015 and 2015-2016.

3. Heard the learned counsel for the petitioner and the learned Government Advocate (Tax) for the respondent.

4. The main grievance of the petitioner as against the impugned orders is that the same were passed in violation of the principles of natural justice, since the petitioner was not provided with an opportunity of personal hearing, though such request was specifically made through their letter dated 30.07.2018.

5. Though the learned Government Advocate (Tax) for the respondent sought to contend that such opportunity of personal hearing was given to the petitioner and that the petitioner has failed to utilize such opportunity, this Court is not inclined to accept such contention for the following reasons. It is not in dispute that the Assessing Officer sent a communication dated 24.07.2018, calling upon the petitioner to appear for personal hearing on 30.07.2018 at 11.30 a.m with reply and relevant documents. It is seen that the said communication itself was sent by the respondent only on 27.07.2018 and received by the petitioner on 30.07.2018, on which day, the personal hearing was fixed. However, the petitioner on the very same day, through his representative appeared before the respondent and made a request in writing for granting 10 days time for submitting the documents, by specifically stating that the very letter dated 24.07.2018, calling upon the petitioner to appear for personal hearing, was received by the petitioner only on 30.07.2018. The respondent, however, rejected such request on the very same day, by making endorsement in the Acknowledgment Book Register of the petitioner. Consequently, the respondent passed the impugned orders of assessment on the very next day. Certainly, the action of the respondent as discussed supra, would indicate that he has not adhere to the principles of natural justice, more particularly, by affording an opportunity of personal hearing to the petitioner, having chosen to give such opportunity to the petitioner, through such letter dated 24.07.2018. The respondent ought to have realized that when the said letter itself was received by the petitioner on the date of personal hearing, there is no meaning in conducting such personal hearing on the very same day, as the petitioner was reasonably prevented from collecting the materials and making an effective appearance on 30.07.2018.

6. Therefore, this Court is fully satisfied that the respondent has violated the principles of natural justice, before passing the impugned orders of assessment. Thus, this Court is of the view that the said orders are liable to be set aside. Accordingly, 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. The petitioner is permitted to make their reply in writing, within a period of two weeks from the date of receipt of a copy of this order. On receipt of such reply, the Assessing Officer shall indicate the date of personal hearing and inform the same to the petitioner well in advance. After completion of personal hearing, the Assessing Officer shall pass fresh orders of assessment on merits and in accordance with law, within a period of four weeks thereafter. It is made clear that this Court is not expressing any view on the merits of the assessment, as it is for the Assessing Officer to consider and decide the same. 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)
Manali Assessment Circle
No.5/79, 5th Main Road,
K.K.D. Nagar,
Kodungaiyur, Chennai-600 118.

+1cc to Mr.R.Kumar, Advocate SR.No.61954
+1cc to The Spl Government Pleader SR.No.62282

 W.P.Nos.23211 to 23213 of 2018

MG(CO)
RMP(25/09/2018)