IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 16.07.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.Nos. 29153 & 29154 of 2013
and
M.P.Nos. 1 & 1 of 2013

Forech India Limited
Rep. by its Vice President (Finance and Administration)
1, SIPCOT Industrial Park,
Cholavaram Post, Cheyyar Taluk,
Thiruvannamalai District. ...Petitioner in both WPs

Vs

1.The Commercial Tax Officer
43/41 Sannathi New Street
Vandavasi 604 408

2.Commissioner of Commercial Taxes,
Chepauk, Chennai.

3.Government of Tamil Nadu
Represented by its Secretary
Commercial Taxes Department
Fort St. George
Chennai 600 009. ...Respondents in all WPs

PRAYER in W.P.No.29153 of 2013: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, calling for the records relating to the order passed by the 1st respondent in order No.CST/377456/2010-11 dated 04.10.2013, quash the same and consequently direct the 1st respondent to afford the petitioner and opportunity of personal hearing, decide the matter on merits.

PRAYER in W.P.No.29154 of 2013: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, calling for the records relating to the order No.CST/377456/2011-12 dated 04.10.2013 passed by the 1st respondent quash the same and consequently direct the 1st respondent to grant opportunity of personal hearing, decide the matter.

For Petitioner : Ms.Charulatha
(in both WPs)

For Respondents : Mr.V.Haribabu, AGP (T)
(in all WPs)

C O M M O N O R D E R

At the time when the assessment orders came to be passed, the respondents had observed that the dealers have not filed the declaration form in time and thereby, the reversal of ITC was made for non-filing of the declaration.

2. The learned counsel for the petitioner submitted that prior to the issuance of the impugned orders, they have made a specific request to the respondents to give them an opportunity of personal hearing, which was not extended to them. A perusal of the impugned orders also does not show that such a personal hearing was given to the petitioner. Though the petitioner has raised several other grounds challenging the impugned orders, this Court is of the view that the petitioner could be extended one more opportunity by directing the respondents to afford a personal hearing before any final orders are issued and as such, the other ground raised by the petitioner can be left open to be adjudicated at the time of final orders.

3. In the light of the above observations, the assessment orders dated 04.10.2013 for the years 2010-11 and 2011-12, are set aside and the matter is remanded back to the 1st respondent for a fresh consideration. During the course of such proceedings, the 1st respondent shall afford an opportunity of personal hearing to the petitioner and the petitioner is also at liberty to file the necessary declaration/C-forms before the respondents, along with their objections. On receipt of such objections, the 1st respondent shall consider the same on its own merits and in accordance with law, as expeditiously as possible, in any event, within a period of 3 months from the date of receipt of copy of this order.

4. Accordingly, the Writ petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Commercial Tax Officer
   43/41 Sannathi New Street
   Vandavasi 604 408

2. Commissioner of Commercial Taxes,
   Chepauk, Chennai.

3. The Secretary to Government of Tamil Nadu
   Commercial Taxes Department
   Fort St. George
   Chennai 600 009.

+1 cc to M/s.Lakshmi Kumaran, Advocate, S.R.No.60548

+1 cc to the Spl. Government Pleader(taxes), S.R.No.60887

W.P.Nos. 29153 & 29154 of 2013
and
M.P.Nos. 1 & 1 of 2013

KS(CO)
SSM(09/09/2019)