IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 29.08.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.6759 of 2012
and
M.P.No. 1 of 2012

Bis-Nu Chem (India) Pvt.Ltd.,
(Represented by its Direcotr
Priyank Marda)
14, (Old No.8), Rulters Lane
(Krishnan Koil Street)
Sea View Tower, Phase III, 1st Floor,
Chennai - 600 001. ...Petitioner

Vs

The Assistant Commissioner (CT) (Main),
Amaindakarai Assessment Circle,
3rd Floor, Kuralagam Annexue Buildings,
Chennai - 108. ...Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorari, quashing the proceedings of the respondent in TIN No.33201024641/2008-09 dated 11.1.2012.

For Petitioner : Mr.N.Sriprakash & N.Prasad
For Respondents : Mr.Mohammed Shaffiq
Special Government Pleader

ORDER

Though several comments have been raised in the present writ petition challenging the assessment order passed, one of the main grounds raised by the petitioner is that though they had raised a specific request before the Assessing Officer for a personal hearing, the same has not been considered. This Court in various decisions have held that when such a request for personal hearing is made, there was a duty cast on the respondent to extend the benefit of personal hearing.

2. The learned Special Government Pleader would submit that the issue as to whether the personal hearing can extend or not,

would be within the powers of the Assessing Officer to grant or reject and as such it cannot be said to be an infirmity of the procedure.

3. I am not in agreement with such a submission, for the reason that when such a request of personal hearing is specifically made and when the Assessing Officer is of the view that such personal hearing need not be extended to the Assessee, in the absence of any specific provision under the Act, there was a duty cast upon him to observe that the petitioner's request for personal hearing has been considered and rejected for the reasons to be set-forth therein. Looking from this point of view, the denial of personal hearing without giving reasons for such denial would amount to violation of the principles of natural justice. There is no dispute in the instant case that request for personal hearing was requested and that such personal hearing was not extended to the assessee.

4. In the light of the above observations, the impugned assessment order TIN No.33201024641/2008-09 dated 11.01.2012, is set aside and the matter is remanded back to the respondent for fresh consideration. The respondent herein, while conducting fresh proceedings, shall extend due opportunity of personal hearing to the petitioner and pass appropriate order on its own merits and in accordance with law as expeditiously as possible in any event within a period of eight weeks from the date of receipt of a copy of this order.

5. Accordingly, the present writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Assistant Commissioner (CT) (Main),
Amaindakarai Assessment Circle,
3rd Floor, Kuralagam Annexue Buildings, Chennai - 108.

+1 cc to The Special Government Pleader Sr.No.75803

AKM/23.10.19/2P-3C /

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