IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.10.2019

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THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.Nos.29893 & 29894 of 2019
and
W.M.P.Nos.29797 & 29800 of 2019

M/s.Forech India Private Limited
Rep. by its Vice-President (Finance and Administration)
1, SIPCOT Industrial Park
Cholavaram Post, Cheyyar Taluk
Tiruvannamalai District. ...Petitioner in both W.P.s

vs.

1. The State Tax Officer (CT)
   43/41, Sannithi New Street,
   Vandavasi - 604 408.

2. The Commissioner of State Taxes
   Chepauk, Chennai-05.

3. The Government of Tamil Nadu
   Represented through its Secretary
   Department of Commercial Taxes
   Tamil Nadu Secretariat. ...Respondent in both W.P.s

Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the impugned order in CST/377456/2010-2011 and 2011-2012 respectively dated 31.08.2019 passed by the 1st respondent and quash the same.

For Petitioner
in both W.P.s : Mr.Raghavan Ramabadran

For Respondents
in both W.P.s : Mr.M.Hariharan
Additional Government Pleader(Taxes)

COMMON ORDER

Mr.M.Hariharan, learned Additional Government Pleader takes notice for the respondents. By consent of both parties, these main writ petitions are taken up for final disposal at the admission stage itself.

2. Both these writ petitions are filed challenging the revised assessment orders dated 31.08.2019 passed in respect of the assessment years 2010-2011 and 2011-2012 respectively.

3. Heard Mr.Raghavan Ramabadran, learned counsel for the petitioner and Mr.M.Hariharan, learned Additional Government Pleader for the respondents.

4. Though several contentions are raised by the writ petitioner touching upon the merits of the impugned assessment orders, their primary objection is that the first respondent/Assessing Officer has not afforded an opportunity of personal hearing to the petitioner before passing the impugned orders, though a positive direction was issued to that effect by this Court while disposing the earlier writ petitions filed by the petitioner in W.P.Nos.29153 & 29154 of 2019 dated 16.07.2019. Therefore, it is contended that the impugned orders are passed not only in violation of principles of natural justice and also in violation of the directions issued by this Court in W.P.Nos.29153 & 29154 of 2019 dated 16.07.2019.

5. The learned Additional Government Pleader for the respondents though sought to contend that a copy of the order passed in W.P.Nos.29153 & 29154 of 2019 dated 16.07.2019 was received by the respondent only from the hands of the petitioner, much after the date of passing the impugned orders, is not in a position to dispute that the earlier order was passed on 16.07.2019, that too, after hearing both the parties.

6. Therefore, I do not think that the learned Additional Government Pleader is justified in contending that the Assessing Officer is not at fault for granting an opportunity of personal hearing.

7. Upon hearing the learned counsels appearing on either side and perusing the earlier order passed by this Court in W.P.Nos.29153 & 29154 of 2019 dated 16.07.2019, it is evident that the present impugned orders are passed without affording an opportunity of personal hearing to the petitioner, even though such direction was specifically issued by this Court in the above said order. Therefore, on that ground alone, this Court is inclined to interfere with this impugned orders and set aside the same only for the purpose of remitting the matter back to the Assessing Officer for redoing the assessment after giving an opportunity of personal hearing to the petitioner. It is made clear that this Court is not expressing any view on the merits of the assessment as well as the contentions raised by the petitioner on merits of the assessment, as it is for the first respondent/Assessing Officer to consider fresh and pass orders

once again on merits and in accordance with law after giving due opportunity of hearing to the petitioner.

8. Accordingly, these Writ Petitions are allowed and the impugned orders are set aside. Consequently, the matter is remitted back to the Assessing Officer to redo the assessment once again after giving due opportunity of hearing to the petitioner and also by complying with the directions issued by this Court in W.P.Nos.29153 & 29154 of 2019 dated 16.07.2019 in its strict sense. Such exercise shall be done by the Assessing Officer within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

s/d-
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

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To

1. The State Tax Officer (CT)
43/41, Sannithi New Street,
Vandavasi - 604 408.

2. The Commissioner of State Taxes
Chepauk, Chennai-05.

3. The Secretary
Government of Tamil Nadu
Department of Commercial Taxes
Tamil Nadu Secretariat.

+2 CCS to Mr.Lakshmi Narayanan, Advocate sr 87688
+1 CC to The Spl. Govt. Pleader(T) sr 88285.

W.P.Nos.29893 & 29894 of 2019

SS(CO)
SP(29/11/2019)