BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 18.02.2021
CORAM:
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
W.P.(MD)No.20187 to 20191 of 2014
and
M.P.(MD)Nos.1,1,1,1&1 of 2014

M/s.Notch (India) Projects,
Represented by its Proprietor P.Kandavelu,
No.72, Konar Thoppu,
Iravathanallur,
Madurai. ... Petitioner in all the W.Ps

-Vs-

The Commercial Tax Officer,
Thiruparankundram Assessment Circle,
Commercial Tax Buildings,
Madurai. ... Respondent in all the W.Ps

COMMON PRAYER : Writ Petitions are filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, calling for records in TIN No. 33326232893/2008-09 dated 12.11.2014 on the file of the respondent and quash the same as illegal, arbitrary and against the principles of natural justice and direct the respondent to pass assessment order afresh alter affording an opportunity of being heard.
(In all the WPs)

For Petitioner : Mr.S.Karunakar
For Respondent : Mr.S.Dayalan
Government Advocate

COMMON ORDER

Heard the learned counsel on either side.

2.Though the writ petitions are five in number, the petitioner is one and the same. The assessment years alone are different. The orders impugned in the writ petitions are liable to be quashed for the sole reason that personal hearing was not afforded to the petitioner herein. Interestingly, in the impugned orders itself, it has been specifically mentioned that the dealer asked for personal hearing. When the dealer had specifically asked for personal hearing, it was the duty of the respondent to have granted the same. Not affording the opportunity of personal hearing clearly vitiates the impugned orders.

3.The Hon'ble Division Bench of Madras High Court in the decision reported in [2019] 60 GSTR 418(Mad) (G.V.Cotton Mills (P) Ltd., V. The Assistant Commissioner(CT), Avarayampalayam Assessment Circle, Coimbatore) held as follows:-

> "Denial of personal hearing:
>
> 10. The respondent denied the appellant opportunity of hearing only on the ground that objection was not

given to the pre-assessment notices. Even if objection was not given, still the assessing authority was expected to post the matter for hearing by issuing notice to the assessee. In case the assessee fail to appear, it is open to the assessment authority to pass orders on merits. We make the position clear that the failure to submit objection to the pre assessment notice would not give a right to the assessment officer to deny opportunity of personal hearing to the assessee.

11. The Supreme Court in Swami Devi Dayal Hospital and Dental College v. Union of India MANU/SC/0873/2013 : [2013] 10 Scale 608 observed that even in the absence of a specific provision of giving hearing, the hearing is required in such cases, unless specifically excluded by a statutory provision."

4.The aforesaid ratio clearly applies to the case on hand. In this view of the matter, the orders impugned in these writ petitions are quashed. These writ petitions are allowed. The matter is remitted to the file of the respondent. The respondent will issue a personal hearing notice and pass orders afresh in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note :In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Commercial Tax Officer,
Thiruparankundram Assessment Circle,
Commercial Tax Buildings,
Madurai.

+1 CC to M/s.S.KARUNAKAR, Advocate (SR-6060[F] dated 19/02/2021)
+1 CC to M/s.SPL GP (SR-6169[F] dated 19/02/2021)

W.P.(MD)No.20187 to 20191 of 2014
and
M.P.(MD)Nos.1,1,1,1&1 of 2014

RMI(CO)
KK(01.03.2021) 2P 4C