

Assessment orders passed without affording opportunity of hearing to the assessee is violative of the principles of natural justice

The Hon'ble Madras High Court in *M/s. Novateur Electrical & Digital Systems Pvt. Ltd v. the Assistant Commissioner (ST) and Ors. [W.P.Nos.4376, 4379, 4382 and 4385 of 2023 and W.M.P.Nos.4412, 4413, 4415 and 4417 of 2023 dated February 16, 2023]* has quashed the assessment orders passed by the Revenue Department, on the grounds that no opportunity of hearing was afforded to the assessee. Remanded the matter back to the Revenue Department for fresh consideration on merits and in accordance with the law. Directed the Revenue Department to pass the final orders after adhering to the principles of natural justice including granting the opportunity of hearing to the assessee.

Facts:

M/s. Novateur Electrical & Digital Systems Pvt. Ltd. ("**the Petitioner**") has challenged the assessment orders for the Assessment Years ("**A.Y**") 2013-14, 2014-15, 2015-16 and 2016-17 dated October 29, 2019 ("**the Impugned Orders**") on the grounds of violation of principles of natural justice.

The Petitioner contended that, opportunity of hearing was not provided by the Revenue Department ("**the Respondent**") before passing the Impugned Orders and that even though the Impugned Orders were dated October 29, 2019, the Petitioner received them on January 30, 2023.

Issue:

Whether the Impugned Orders passed without affording opportunity of hearing to the Petitioner are sustainable?

Held:

The Hon'ble Madras High Court in ***W.P.Nos.4376, 4379, 4382 and 4385 of 2023 and W.M.P.Nos.4412, 4413, 4415 and 4417 of 2023*** held as under:

- Noted that, the Impugned Orders were dispatched on January 27, 2023 and hence, the Petitioner's claim of receiving the Impugned Orders on January 30, 2023 is believable.
- Observed that, as per the Impugned Orders, no opportunity of hearing was afforded to the Petitioner.
- Noted that, as no proper Show Cause Notice ("**the SCN**") was sent to the Petitioner for the AY 2016-17, the Impugned Order passed for the AY 2016-17 shall be treated as the SCN.
- Permitted the Petitioner to send a reply to such SCN.
- Remanded the matter back to the Respondent for fresh consideration on merits and in accordance with the law.
- Directed the Respondent to consider the reply of the Petitioner, while passing the final orders, after adhering to the principles of natural justice including granting the opportunity of hearing to the Petitioner within 12 weeks.
- Directed the Petitioner to appear before the Respondent for the personal hearing.
- Quashed the Impugned Orders.

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