IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2015

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE MR. JUSTICE M.VENUGOPAL

W.A. Nos.211 to 218 of 2015 and M.P. Nos.1 & 1 of 2015

M/s. Infinity Metal Private Limited,
rep. By its Director
B. Ramachandran,
No. 3 GNT Road,
Gummidipoondi 601 201. ... Appellant in all Writ Appeals.

vs.

The Commercial Tax Officer
Ponneri Assessment Circle
Ponneri,
Chennai - 601 204 ... Respondent in all Writ appeals

Writ Appeals filed under Clause 15 of the Letters Patent as against the common order dated 04.07.2014 passed in W.P. Nos.17653 to 17660 of 2014.

Writ Petitions filed under Article 226 of the Constitution of India praying for the issuance of a Writ of certiorari calling for the records on the file of the respondent in its proceedings made in TIN/33081702931/2006-07,2007-2008,2008-2009,2009-2010,2010-2011,2011-2012,2012-2013,2013-2014 dated 07.06.2014 and to quash the same as it is contrary to the provisions of Section 19(10)(a) of TNVAT Act, 2006 and Rule 10(2) of TNVAT Rules, 2007.

For appellant in all the WAs : Mr.M.N. Rao, Sr. Counsel for M/s. R. Hemalatha

For respondent in all the WAs : Mr. Kanmani Annamalai Government Advocate - Taxes

COMMON JUDGMENT

(Judgment of the Court was delivered by SATISH K. AGNIHOTRI, J.)

Heard Mr. M.N. Rao, learned senior counsel appearing for the appellant and Mr. Kanmani Annamalai, learned Additional Government (Taxes) appearing for the respondent.

2. The appellant had filed writ petitions being W.P. Nos. 17653 to 17660 of 2014 for quashing the assessment order dated 07.06.2014 passed by the respondent. The Writ Court, while setting aside the impugned order, had directed the appellant to deposit 5% of the tax amount in each case, as volunteered by them, on or before 16.08.2014 and also permitted to file its objection within a period of fifteen days, and thereafter, the respondent/authority was given liberty to pass orders on merits.

3. The only contention raised by the learned counsel for the appellant before us is that once the writ petition has been allowed and the appellant is permitted to file its objections before the authority concerned and also, the respondent is directed to pass orders, there is no justification on the part of the Writ Court in giving a direction for making a deposit of 5% of the tax amount inasmuch as the question of making any deposit or payment would arise only after fresh assessment is made.

4. In our considered view, the aforesaid submission of the learned counsel for the appellant is justified. Accordingly, the direction issued by the Writ Court regarding deposit of 5% of the tax amount alone is set aside. However, as per the order of the Writ Court, the appellant shall file its objection along with documents, if any, before the respondent within a period of two weeks and on receipt of the same, the respondent is directed to consider the same independently and after giving opportunity of hearing, shall pass orders afresh, on merits and in accordance with law, as expeditiously as possible and not later than four weeks from the date of receipt of the objections.

5. These writ appeals are allowed to the extent indicated above. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

The Commercial Tax Officer
Ponneri Assessment Circle
Ponneri,
Chennai - 601 204

+8cc's to M/s.R.Hemalatha, Advocate, S.R.No.12546
+1cc to the Special Government Pleader(Taxes), S.R.No.13056

W.A.Nos. 211 to 218 of 2015

KM(CO)
CA(18/03/2015)