IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2015

CORAM :

THE HONOURABLE MR. JUSTICE T. RAJA

W.P.NOs. 13138 to 13141 OF 2015
and
M.P.Nos. 1 to 1 of 2015

M/s.Vijay Shree Metals,
rep. by its Proprietor
V.Mangilal
Parrys, Chennai - 1 ... Petitioner in all W.Ps

Vs

The Assistant Commissioner (CT)
Broadway Assessment Circle,
Chennai - 01. ... Respondents in all W.Ps

PRAYER in all W.Ps.: These Writ Petitions have been filed under section 226 of the Constitution of India to issue an order of Writ of Certiorari, to call for records relating to the proceedings of the respondent in TIN/33810061338/2011-12, TIN/33810061338/2012-13, TIN/33810061338/2013-14 and TIN/ 33810061338/2014-15 dated 02.03.2015 and to quash the same.

For petitioner in all W.Ps. : Mr.S.Raveekumar

For respondent in all W.Ps. : Mr.ANR.Jayaprathap
Government Advocate (Taxes)

COMMON O R D E R

There are four writ petitions filed by M/s.Vijay Shree Metals, represented by its Proprietor Mr. V.Mangilal against the impugned proceedings of the Assistant Commissioner (CT) Broadway Assessment Circle, Chennai to call for the records and quash the proceedings in TIN/33810061338/2011-12, TIN/ 33810061338/2012-13, TIN/33810061338/2013-14 and TIN/ 33810061338/2014-15 dated 02.03.2015, on the ground that the impugned orders are not only arbitrary and illegal but also against the provisions of TNVAT Act.

2. Learned counsel appearing for the petitioner would submit that the respondent has reversed the ITC on the very same grounds by merely changing the last four lines of the order which was earlier set aside by this Court. Therefore, the impugned order passed by the respondent is in violation of the principles of natural justice, he pleaded. Adding further he would submit that when the respondent has failed to provide a reasonable opportunity, more particularly, failing to provide a copy of the third party documents relied upon by him and also an opportunity to cross examine the dealers, it goes without saying that the petitioner had no opportunity to traverse the same. He also further submitted that in a similar matter in W.P. No. 12493 of 2015, an order has been passed by this court on 28.04.2015 and hence sought for a similar order in this case also.

3. Mr. A.N.R. Jaya Prathap, learned Government Advocate representing the respondent agreed to the last submission made by learned counsel for the petitioner that a similar matter came up for hearing in W.P. No. 12493 of 2015 and was ordered on 28.04.2015. The petitioner being a registered dealer of Stainless Steels and copper materials on the file of the respondent has effected both purchases and sales locally. Being so, he was issued with a notice dated 11.12.2014 for the Assessment year 2014-15 calling for the purchase and sales bills from the date of registration, bank statement and proof of movement of goods alleging defects in the ITC claim. When the respondent threatened to cancel the registration certificate from the date of registration and also to reverse the ITC of his purchases, the petitioner sought for certain details for the Assessment year 2014-15 alone.

4. To cut short the issue, for the sake of gravity, it appears that the petitioner filed W.P. No. 5173 of 2015 complaining that the respondent has gone beyond the scope of notice and has passed the proceeding without there being any proof for movement as contemplated under the VAT Act. This Court by allowing the writ petition in W.P. No. 5173 of 2015, directed renewal of the registration certificate holding cancellation of registration certificate of the buyer cannot affect the transaction of the petitioner. Again, the respondent pursuant to the order passed by this Court has passed the present impugned order, again committing another error in not providing a reasonable opportunity. When the respondent had failed to provide a copy of the third party documents

relied upon by them and also an opportunity to cross examine the dealers, the impugned order, in my view, is liable to be set aside.

5. In view of the above reasoning, the impugned orders are set aside and the matter is remanded back to the first respondent, by providing all the documents relied on, by the petitioner. It is needless to mention that the respondent shall provide an opportunity of personal hearing to the petitioner, before passing of final orders.

6. Accordingly, all the writ petitions are allowed. Consequently, connected M.Ps are closed. No order as to costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

avr

To

The Assistant Commissioner (CT)
Broadway Assessment Circle,
Chennai - 1.

+4cc's to Mr.S.Raveekumar, Advocate, S.R.No.24859
+1cc to the Special Government Pleader(Taxes), S.R.No.24155

W.P.NOs. 13138 to 13141 OF 2015
and
M.P.Nos. 1 to 1 of 2015

SR(CO)
CA(26/05/2015)