IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.08.2015

CORAM:

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P.No.17317 of 2015
and
M.P.No.1 of 2015

M/s.J.T.Steels,
Rep. By its Power of Attorney Mr.Javid Tamiz,
No.17, Sembudoss Street,
Chennai 600 001. ... Petitioner

-Versus-

The Assistant Commissioner (CT),
Esplanade Assessment Circle,
No.116, Angappa Naicken Street,
Chennai 600 001. ... Respondent

Writ Petition filed under Article 226 of the Constitution of India for the relief of issuance of Writ of Certiorari calling for the records on the file of the respondent relating to TIN: 33600081290/2010-11, dated 08.05.2015 and to quash the same as illegal, beyond the jurisdiction and authority of law and contrary to the order passed by this court in W.P.Nos.19673 and 33761 of 2014.

For petitioner : Mr.T.Pramokumar Chopda

For respondents : Mr.S.Kanmani Annamalai,
AGP (Taxes)

ORDER

Seeking to quash the revision order of assessment dated 08.05.2015 in TIN/33600081290/2010-11 passed by the respondent, the petitioner is now before this court with this writ petition.

2. The petitioner is a registered dealer under Tamil Nadu Value Added Tax Act,2006 [in short, “the TNVAT Act” and Central Sales Tax Act, 1956 [in short, “the CST Act”] and an assessee on the file of the Assistant Commissioner (CT), Harbour V Assessment Circle, Chennai. The petitioner was carrying on his business regularly. During the regular course of business, the petitioner effected purchases and sales and claimed Input Tax Credit (ITC) in respect of local purchases as per Section 19(1) of the Act and paid Output Tax after adjusting / setting off ITC as per Section 19(2) of the Act and filed monthly returns for the assessment year 2010-

2011 and on that basis assessment order under Section 22(2) came to be passed. While so, on 14.06.2010, the place of business of the petitioner was inspected by the authority concerned. During verification, it was found that the records were kept in order except the alleged stock difference, based on the stock position reported by an employee. However, the respondent issued a notice dated 17.04.2014 for which the petitioner submitted his explanation 13.05.2014 along with relevant records. Not being satisfied with the same, the respondent passed a revision order dated 19.05.2014. Aggrieved by the said order, the petitioner filed W.P.No.19673 of 2014 and this court by order dated 23.07.2014 set aside the above said order.

3. The learned counsel for the petitioner submitted that pursuant to the above said order of this court, the respondent passed a revised order on 14.11.2014 without complying the directions thereon. In those circumstances, the petitioner again approached this court by way of writ petition in W.P.No.33761 of 2014. This court, by order dated 19.12.2014, set aside the revision order of the respondent dated 14.11.2014 and remitted the matter back to the respondent for fresh consideration with a direction to afford opportunity of personal hearing to the petitioner, consider the objections including the payment effected by the petitioner and thereafter pass fresh order on merits and in accordance with law. Thereafter, the respondent passed the impugned revision order dated 08.05.2015 verbatim restoring the order quashed by this court. It is the said revision order now under challenge in this writ petition and the learned counsel for the petitioner seeks to quash the same.

4. Heard both sides and also perused the records carefully.

5. Earlier, this court, by order dated 19.12.2014, while setting aside the order impugned therein, remanded the matter back to the respondent for fresh consideration. The respondent was also directed to provide an opportunity of personal hearing to the petitioner and consider the objections filed by the petitioner therein including the payment effected by the petitioner and to pass appropriate orders within a time frame. Pursuant to the same, an order came to be passed on 08.05.2015 which is impugned herein.

6. In the said order, there is no mention with regard to the payment effected and the outstanding amount to be paid. On the other hand, the earlier revision order, which was set aside by this court, has been retained by the assessing authority and that the act of the respondent is per se illegal. The respondent ought to have adjudicated the issue as directed, but miserably failed to do so. Thus, this court is of the considered view that the impugned revision order requires interference and the matter requires to be remitted back to the respondent for fresh consideration with certain directions.

7. In the result, this writ petition is allowed. The impugned revision order dated 08.05.2015 is set aside and the matter is remitted back to the respondent for fresh consideration in the following terms:

(i) The respondent is hereby directed to issue a fresh notice relating to all the issues after quantifying the amount to be paid as well as the amount already paid by the petitioner within a period of two weeks from the date of receipt of a copy of this order.

(ii) On such notice, the petitioner is directed to file his objections afresh meeting out all the issues specified in the notice along with details of payments effected within a period of two weeks from the date of receipt of such notice.

(iii) After such objections, as directed by this court, are received, the respondent shall afford sufficient opportunity to the petitioner including the personal hearing and pass an appropriate / speaking order on merits and in accordance with law within a period of six weeks thereafter.

No costs. Consequently, connected MP is closed.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

kmk

To

1.The Assistant Commissioner (CT), Esplanade Assessment Circle,
No.116, Angappa Naicken Street, Chennai 600 001.

+1 cc to Mr.T.Pramodkumar Chopda, Advocate, sr.42107
+1 cc to The Special Government Pleader (Taxes), sr.42358

W.P.No.17317 of 2015

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