IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2015

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.Nos.19965 and 19966 of 2015
and M.P.Nos.1 of 2015

M/s. Chennai Steel Company
Rep. by its Managing Partner S.Prsimiyan
S/o. N.Samsudeen No.46 South Kandy Street
Beema Nagar Trichy-620001. [Petitioner] in both WPs

Vs

The Assistant Commissioner(CT)
Office of the Assistant Commissioner(CT)
Cuddalore Taluk Cuddalore.

[Respondent] in both WPs

Writ Petitions filed under Article 226 of the Constitution of India to issue a Writ of certiorari calling for the records comprised in TIN No. 33104402236/2008-09 dated 6.5.2015 and 17.06.2015 respectively on the file of the respondent disallowing the input tax credit under Section 27(2) of the Tamil Nadu Value Added Tax Act 2006 and to recover the disallowed input tax credit along with penalty respectively and quash the same.

For Petitioner : Mr.R.Karthikeyan

For Respondent : Mr.S.Manoharan Sundaram, AGP(T)

O R D E R

Heard the learned counsel appearing for the petitioner and Mr.S.Manoharan Sundaram, learned Additional Government Pleader, (Taxes), who took notice for the respondent and with their consent, the main writ petitions are taken up for disposal.

2.These writ petitions have been filed under Article 226 of the Constitution of India challenging the orders in TIN No. 33104402236/2008-09 dated 6.5.2015 and 17.06.2015 respectively on the file of the respondent, disallowing the input tax credit under Section 27(2) of the Tamil Nadu Value Added Tax Act 2006 and recovering the same along with penalty.

3. According to the learned counsel for the petitioner, the petitioner Company, a dealer in steel, registered with the

respondent in TIN 33104402236, is regularly filing the monthly returns in Form I and claiming input tax credit availed on the purchase and regularly paying output tax credit, after deducting the input tax credit. Further, according to him, for the assessment year 2008-09, when the petitioner filed monthly returns, claiming input tax credit, the same was assessed vide proceedings dated 04.01.2010 and the respondent issued notice dated 08.04.2015 calling upon the petitioner to show cause as to why the Input tax credit claimed should not be disallowed as nearly 25 selling dealers of the petitioner have not paid tax to the department and proposed to disallow the input tax credit, and also proposed to impose penalty, for which, the petitioner filed their detailed objections on 27.04.2015, which fact is admitted in the impugned order by stating as follows:-

> "after verification of the details furnished along with the objections, with reference to the notice, the dealers have accounted for all the purchases except the above TIN.33021422089. Therefore, the claim of ITC is in order and not accepted their objection".

Since the said TIN Number has no nexus with the business operations of the petitioner, having aggrieved upon, the respondent came to pass the said impugned order, by not accepting their objections. However, the stand of the respondent cannot be countenanced since no adequate opportunity was given to the petitioner with regard to wrong mentioning of the said TIN No. Hence, the petitioner is before this Court.

4. The learned Additional Government Pleader (Taxes) fairly submitted that yet another opportunity of being heard may be provided to the petitioner and thereafter appropriate orders will be passed by the respondent.

5. In view of the above submissions made by the learned Additional Government Pleader (Taxes), the impugned orders dated 06.05.2015 and 17.06.2015 are set aside and the matters are remitted back to the respondent for passing orders afresh on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order, after affording due opportunity of being heard to the petitioner.

The writ petitions are disposed of on the above terms. No costs. Connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

The Assistant Commissioner(CT)
Office of the Assistant Commissioner(CT)
Cuddalore Taluk Cuddalore.

+1 cc to Mr.R.Karthikeyan, Advocate sr.44869
+1 cc to Special Government Pleader (Taxes)
High Court Madras sr.45112

W.P.Nos.19965 and 19966 of 2015

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