IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 04.02.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P. No.2640 of 2015
and
M.P.No. 1 of 2015

Tvl. Bisweshwar Lal Steels,
rep. by its Partner Deepak Gupta ... Petitioner

Vs.

The Assistant Commissioner (CT),
Broadway Assessment Circle,
(Formerly Harbour-III Assessment Circle),
Chennai-600 001. ... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorarified mandamus calling for the records of the respondent in CST 68072/2008-09 dated 16.12.2014 and to quash the same as illegal and unconstitutional and further direct the respondent to accept at all the declaration forms available with the petitioner and to pass a fresh order of assessment in accordance with law.

For Petitioner : Mr.A.Ravichandran

For Respondent : Mr.Kanmani Annamalai,
Additional Government Pleader (Tax)

O R D E R

The petitioner has filed the writ petition challenging the order passed by the respondent in CST 68072/2008-09 dated 16.12.2014 and to quash the same as illegal and unconstitutional and to further direct the respondent to accept all the declaration forms available with the petitioner and to pass a fresh order of assessment in accordance with law.

2.The petitioner is a registered dealer under the Tamil Nadu Value Added Tax Act, 2006 (hereinafter called 'the Act'). According to the petitioner, the respondent herein had issued a Notice dated 20.10.2014 in CST/68072/2008-09 wherein a proposal was made to reverse the Input Tax Credit availed to a tune of Rs.5,63,31,140/-, since no 'C' Forms were alleged to have been furnished in support of the turnover. Upon receipt of the said notice dated 20.10.2014, on

03.12.2014 the petitioner had sent a reply dated 04.12.2014 wherein they had disclosed the evidence of submission of the 'C' Forms to the respondent and had also enclosed a copy of the letter delivery book confirming acknowledgment of the 'C' Forms being submitted as early as on 20.01.2012 with the respondent. In spite of the receipt of the representation dated 04.12.2014 along with the copy of the delivery note evidencing production of 'C' Forms, the respondent had failed to consider the same and had passed an order of assessment dated 16.12.2014 under deemed assessment. In spite of receipt of the representation dated 09.01.2015, the respondent had chosen to ignore the same and has passed a demand notice dated 19.01.2015.

3.Heard the learned Additional Government Pleader (Tax) for the respondent.

4.As could be seen from the narration of events mentioned supra, I find much force in the contention of the petitioner. The writ petition is allowed and the impugned order is set aside and the matter is remitted to the authority for fresh consideration. The petitioner is directed to re-submit the C-Forms, before the end of this month and on receipt of the same, the authority shall consider the same and pass appropriate orders within two months, on merits, after giving due opportunity to the petitioner. No costs. Consequently, connected M.P. is closed.

vga

-s/d-
Assistant Registrar(CO)
Dt:5/2/2015

True Copy

Sub-Assistant Registrar

To

The Assistant Commissioner (CT),
Broadway Assessment Circle,
(Formerly Harbour-III Assessment Circle),
Chennai-600 001.

+ 1 cc to Mr.A.Ravichandran, Advocate SR 5715

+ 1 cc to Spl.Govt. Pleader (T) SR 5816

scd(co)
prk5/2

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