IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.09.2015

CORAM :

THE HON'BLE MR. JUSTICE R.MAHADEVAN

W.P.Nos.29287 to 29290 of 2015
and
M.P.Nos.1 of 2015

Suryadev Alloys & Power
Private Limited ... Petitioner in all WPs
Represented by its Director
Mr.Pankaj Agarwal
Survey No.298/2
Gummidipoondi Taluk
New Gummidipoondi- 601201.

Vs

The Commercial Tax Officer
Gummidipoondi Assessment Circle
38 Second Floor
GNT Road, Gummidipoondi. ... Respondent in all WPs

Writ Petitions filed under Article 226 of the Constitution of India seeking a writ of certirorarified mandamus to call for the records of the respondent in TIN 33921702760/2010-11 to 2013-14 dated 31.07.2015 and quash the same and direct the respondent to consider the petitions dated 14.07.2015.

For petitioner : Mr.R.Kumar

For respondent : Mr.S.Kanmani Annamalai,
Additional Government Pleader(T)

C O M M O N O R D E R

These writ petitions have been filed challenging the orders of the respondent dated 31.07.2015 and to direct the respondent herein to consider the petitions dated 14.07.2015.

2.1 The petitioner is a registered dealer under the TNVAT Act with TIN No.33921702760 and filing monthly returns in Form I. The petitioner was originally an assessee on the files of the Assistant Commissioner (CT), Ponneri Assessment Circle and after reorganisation, the registration file was transferred to the Commercial Tax Officer, Gummidipoondi Assessment Circle, the respondent herein.

2.2. The petitioner is a manufacturer and dealer in M.S.Billets and TMT bars. The petitioner purchased raw materials from local and inter-state dealers and also imported raw materials. The input tax paid on the local purchases are adjusted against output tax due as per the provisions of the Act.

2.3 Whileso, the place of business of the petitioner was inspected by the Officers of the Enforcement Wing during September and October 2013. During the course of inspection, the entire books of accounts were produced, which were perused and verified. After verification, the Officers filed a report, based on which, the respondent issued notice dated 21.02.2014, for which, the petitioner filed their objections dated 28.04.2014 and 09.01.2015. However, without considering the same, the respondent confirmed the proposal with respect to the assessment years 2010-11 and 2011-12, by order dated 16.02.2015.

2.4 Aggrieved over the said order, the petitioner filed W.P.No.8867 of 2015 and this Court by order dated 27.03.2015 directed the petitioner to pay 5% of the amount and further directed to appear on 30.04.2015 before the respondent to make verbal and written submissions. Similarly, for the assessment years 2012-13 and 2013-14, assessment orders came to be passed on 31.03.2015. The petitioner submits that though they have complied with the said directions, the respondent without even properly appreciating the data filed and misunderstanding the details filed, passed orders dated 05.06.2015 in respect of the assessment years 2010-11 and 2011-12 and orders dated 08.06.2015 in respect of assessment years 2012-13 and 2013-14.

2.5 Since the respondent has not properly appreciated the details filed by the petitioner, the petitioner submitted petitions dated 14.07.2015 under Section 84 of the TNVAT Act. However, the respondent passed the impugned orders dated 31.07.2015. Aggrieved over the same, the petitioner has come before this Court.

3. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondent.

4. As against the impugned orders, there is an effective alternative remedy available under Section 51 of the TNVAT Act. Since there are various disputed questions of facts involved with regard to wrong claim of exemption and filing of false certificates, this Court feels that it is appropriate for the petitioner to file an appeal before the appellate authority.

5. In view of the same, these writ petitions are disposed of by granting four weeks' time to the petitioner to file appeals before the appellate authority. On such filing, the appellate authority shall entertain the same and pass appropriate orders, on merits and in accordance with law, without raising the issue of limitation. No costs. Connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

rg

To

The Commercial Tax Officer
Gummidipoondi Assessment Circle
38 Second Floor
GNT Road, Gummidipoondi.

+4cc's to Mr.R.Kumar, Advocate, S.R.No.50520
+1cc to the Special Government Pleader(Taxes), S.R.No.50652

W.P.Nos.29287 to 29290 of 2015

SV(CO)
CA(01/10/2015)