IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2015

CORAM:

THE HON'BLE MR. JUSTICE R. MAHADEVAN

W.P.Nos.38069 and 38070 of 2015
and M.P.Nos.1 of 2015

M/s.Sakthi Steel Industries Ltd.
at No. 18/26 2nd Street
Loganathan Nagar
Choolaimedu Chennai-94
Rep. by its Director. ...Petitioner in both WPS

Vs

Asst. Commissioner (CT)
O/o.Asst. Commissioner of Commercial Taxes
Vadapalani Assessment Circle
No.1 Greams Road
Chennai-06. ...Respondent in both WPs

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus to call for the records of the Respondent in his proceedings leading to passing of the Revised Assessment Order vide TIN/33761465392/2013-14 and 2012-13 respectively dated 30.07.2015 quash the same and direct the Respondent to pass fresh revised assessment order after considering the reply by the Petitioner and after giving personal hearing.

For petitioner in both WPs: Mr.S.Sathyanarayanan

For respondent in both WPs: Mr.S.Kanmani Annamalai, AGP

O R D E R

Heard the learned counsel appearing for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader for the respondent.

2. These writ petitions are filed under Article 226 of the Constitution of India challenging the Revised Assessment Order vide TIN/33761465392/2013-14 and 2012-13 respectively dated 30.07.2015 and to direct the respondent to pass fresh revised assessment orders, after considering the replies filed by the petitioner and after giving personal hearing.

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3.1 The petitioner is a dealer in iron and steel and a registered dealer under TNVAT Act and regularly submitting its returns and compliances relating to the said business. It is the case of the petitioner that a show cause notices dated 15.05.2015 were received by them on 25.05.2015 and vide their letter dated 08.06.2015, they sought 30 days' time to file reply. Since no order granting or rejecting the request made by the petitioner was passed, after the petitioner's accountant reported back to duty, who went on sick leave for about 15 days in the second week of July 2015, a detailed reply was filed along with several documents vide their replies dated 18.08.2015 to the show cause notices dated 15.05.2015, all of a sudden, on 01.09.2015 through a messenger, revised assessment orders purported to be issued on 30.07.2015 from the respondent were received by the petitioner. Immediately, on 02.09.2015, the petitioner contacted the respondent and also filed a letter dated 02.09.2015 stating that none of the submissions were considered. The respondent orally informed that they would revise the order. However, no order was passed. Hence the present writ petition.

4.1 The learned counsel for the petitioner would submit that the impugned orders dated 30.07.2015 are erroneous and not in accordance with the principles of law. It is his further submission that the respondent ought to have passed the orders of assessment after duly considering the replies filed by the petitioner. Hence, the impugned orders are passed ignoring the principles of natural justice.

Based on these the learned counsel for the petitioner has sought for allowing of the writ petition.

5. On the other hand, the learned Additional Government Pleader has made his submissions supporting the impugned orders.

6. Despite specific request made by the petitioner for grant of further time for filing objections, which are available at page No.15 of the typed set of papers, which were also received by the respondent, the respondent, either granting further time or rejecting the said request, passed the impugned orders dated 30.07.2015. A perusal of the impugned orders reveals that even at paragraph No.5, there is no reference to the service of notice on the petitioner. For all these reasons, the impugned orders cannot be sustained and accordingly, the same are set aside. The matters are remitted back to the respondent for passing appropriate orders on merits. It is made clear that the petitioner is directed to file objections within a period of two weeks from the date of receipt of a copy of this order and on such filing, the same shall be considered and orders passed, after affording an opportunity of being heard to the petitioner. The writ petitions are disposed of

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accordingly. No costs. Connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

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To

The Asst. Commissioner (CT)
O/o.Asst. Commissioner of Commercial Taxes
Vadapalani Assessment Circle
No.1 Greams Road,Chennai-06.

2 ccs to Mr.S.Sathyanarayanan, Advocate, Sr. 68113, 68114
1 cc to the Special Government Pleader, Sr. 68233

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