IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.03.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos.5931 to 5934 of 2015 and M.P.Nos.1 of 2015

Tvl.Rajyog Steel,
rep.by its Proprietor
C.Ramesh Kumar ... Petitioner in all the W.Ps

Vs

The Commercial Tax Officer,
Moore Market, South Assessment Circle,
No.39, 1st Floor, Waavoo Mansion,
Rajaji Salai,
Chennai-600 001 ... Respondent in all the W.Ps

Writ Petitions have been filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records of the respondent in TIN.33110360871/2010-11, 2013-14, 2012-13 and 2011-12, dated 31.12.2014, respectively and to quash the same.

For Petitioner : Mr.S.Raveekumar

For Respondent : Mr.V.Haribabu,A.G.P(T)

COMMON ORDER

The petitioner has come forward with these writ petitions challenging the order dated 31.12.2014, wherein and whereby the respondent determined the total and taxable turnover and also levied penalty. The assessment years involved are 2010-11, 2013-14, 2012-13 and 2011-12, respectively.

2. The main contention raised by the petitioner is that the respondent ought not to have passed the Impugned Proceedings dated 31.12.2014, as it was the last date for filing reply. Though the petitioner has raised other objections, which are mentioned in the grounds, when this Court pointed out that he has got alternative remedy and this Court will not entertain the Writ Petitions on the

other grounds and that this Court is going to direct the petitioner to approach the Appellate Authority concerned, the petitioner confined to ground No.1, as stated above.

3.The authorities have given time to the petitioner for filing reply. Even though the petitioner had received notice well in advance and has given objections, the proposed turnover, tax and ITC were confirmed by the authority.

4.This Court also pointed out that unless and until some portion of the amount is deposited by the petitioner, this Court may not entertain the Writ Petitions.

5.Today, the learned counsel for the petitioner fairly submitted that the petitioner would deposit 15% of the tax, excluding penalty, determined by the authority, so that the petitioner may be given an opportunity of personal hearing by the authority. The learned counsel for the petitioner requested twelve weeks time to deposit the amount, as he would submit that that the Industry is really being suffered loss.

6.Without rendering any finding on the merits of the matter and that the petitioner is ready and willing to deposit 15% of the arrears of tax, excluding penalty determined by the authority and without prejudice to the contention of the parties, the petitioner is given liberty to raise all the factual and legal submissions raised herein before the Authority, by then, the Authority shall pass orders on merits and in accordance with law, after affording an opportunity of personal hearing to the petitioner and without being influenced by the earlier Order or influenced by the Order in these Writ Petitions, within a period of four weeks, as per conditions laid down as follows:-

(i) The petitioner shall deposit 15% of the amount determined by the authority in each case, excluding penalty, which shall be payable in two instalments, viz., 50% of 15% shall be paid on or before 31.03.2015 and the remaining 50% of 15% shall be paid on or before 30.04.2015.

(ii) The petitioner shall appear before the authority concerned on 06.04.2015 and make his written submissions / objections and also support his contention with documents, if any and it is open to the authority to grant further time, if required and pass orders within a period of four weeks from the date of hearing, as the case may be.

(iii) The order shall be kept in a sealed cover till the amount of 15% is deposited by the petitioner.

(iv) In case the petitioner fails to pay 15% of the amount, as agreed by him, within the period stipulated above, the original order impugned in these Writ petitions shall stand restored and the respondent is empowered to initiate appropriate action in accordance with law.

7.In the result, these Writ Petitions are disposed of and the impugned order is set aside on the above conditions. Consequently connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

msk

To

The Commercial Tax Officer,
Moore Market, South Assessment Circle,
No.39, 1st Floor, Waavoo Mansion,
Rajaji Salai,
Chennai-600 001

+4cc's to Mr.s.Raveekumar, Advocate, S.R.No.12405

W.P.Nos.5931 to 5934 of 2015

MSM(CO)
CA(17/03/2015)