IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.3.2015

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

Writ Petition No.7691 of 2015
and
M.P.No.1 of 2015

Sree Rengaraj Steel and Alloys (P) Ltd.,
Represented by its Director,
P.Srinivasan
99, Sankari Main Raod,
Salem 636 002. ...Petitioner

-vs-

1. The Assistant Commissioner(CT),
   Suramangalam Assessment Circle,
   Salem

2. The Principal Secretary/
   Commissioner of Commercial Taxes,
   2nd Floor, Ezhilagam,
   Chepauk, Chennai 600 005. ...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified mandamus to call for the records on the files of the respondent in TIN.No.33812640956/2011-12 dated 2.1.2015 received on 12.2.2015 and quash the same as being without jurisdiction, authority of law and contrary to the principles of natural justice and further direct the first respondent to pass order in accordance with the direction issued by this court in W.P.Nos.10661 and 10662 of 2014 dated 11.4.2014 (Tvl.Sonal Vyapar Limited, Salem v. The Assistant Commissioner (CT) 9 FAC), Suramangalam Assessment Circle, Salem).

For petitioner : Mr.R.Senniappan

For Respondents : Mr.Kanmani Annamalai
Additional Government Pleader

ORDER

By consent of the counsel for both sides, the main Writ Petition itself is taken up for final disposal at the time of admission.

2. The petitioner has come up with the present Writ Petition for the aforesaid prayer.

3. The case of the petitioner, as stated in the affidavit, filed in support of the Writ Petition, in short, is that the petitioner is a private company registered under the provisions of the Tamil Nadu Value Added Tax Act, 2006. The petitioner-Company has a steel re-rolling Mill, manufacturing finished products such as M.S.Bars and M.S.Rods (Iron and Steel items) by using the raw materials, such as iron scraps, billets, ingots, sponge etc., purchased from both local and outside the State. It has branches in Kerala and Karnataka States. The first respondent has passed a self assessment orders, by accepting the monthly returns filed by the petitioner for the assessment year 2011-12. Thereafter, the first respondent issued a revision notice, dated 6.9.2013, proposing to make reversal of input tax credit of Rs.52,55,218/- for the reason that the petitioner has not reversed the input tax credit in respect of the goods dispatched on stock transfers to its branches situated at other State and on the goods dispatched on consignment stock transfers to its agent in other State. On receipt of the said revision notices, the petitioner filed a detailed replies/objections, dated 18.11.2013 and 8.8.2014 stating that they maintained separate production and stock accounts for the finished products manufactured from locally purchased raw materials, i.e., iron scraps, billets, ingots and sponge, and separate production and stock accounts for the finished products manufactured from the raw materials, i.e. iron scraps and ingots purchased from foreign Country in the course of inter-state trade. Therefore, the petitioner requested to drop the proposal of making reversal of input tax credit of Rs.52,55,218/- by considering the objection filed by them. The first respondent, without proper appreciation of facts and averments assigned in the objection, dated 18.11.2013 and 8.8.2014, passed the impugned orders, thereby, confirming the proposals made in the revision notice. Aggrieved by the same, the petitioner has filed the present Writ Petition, seeking for the prayer, as stated supra.

4. The learned counsel appearing for the petitioner has submitted that the first respondent, without properly appreciating the facts stated in the reply, dated 18.11.2013 and 8.8.2014,

wherein, the petitioner has taken a firm stand that they had maintained separate production and stock accounts for the finished products manufactured from locally purchased raw materials, and separate production and stock accounts for the finished products manufactured from the raw materials purchased outside the State, passed the impugned orders, without taking note of the separate accounts and the statements submitted by the petitioner along with the reply dated, 18.11.2013 and 8.8.2014. The learned counsel also submitted that the impugned orders have been passed without even providing an opportunity of hearing to the petitioner. The learned counsel, therefore, submitted that the impugned orders are unsustainable and they are liable to be set aside.

5. The learned Additional Government Pleader also fairly submitted that the first respondent, without taking note of the separate accounts and the statements submitted by the petitioner along with the reply filed by the petitioner, dated, 18.11.2013 and 8.8.2014, passed the impugned order, thereby, confirming the proposal made in the revision notices, dated 6.9.2013.

6. Heard both sides.

7. In view of the aforesaid facts and the submissions made by the learned counsel for both the parties and also on a perusal of the materials available on record, it could be deduced that the impugned orders came to be passed without taking note of the vital point pointed out by the petitioner in their reply dated 18.11.2013 and 8.8.2014, wherein, the petitioner has made it clear that they had maintained separate production and stock accounts for manufacturing the finished products by using the raw materials purchased from both local and outside the State. That apart, the impugned orders have been passed without affording an opportunity of hearing to the petitioner to putforth their defence.

8. Hence, this Court is of the view that the impugned order is liable to be set aside and the matter may be remitted to the first respondent for fresh consideration.

9. Accordingly, the Writ Petition is allowed by setting aside the impugned order dated 12.02.2015 and the matter is remitted to the first respondent, who shall pass fresh orders independently, in accordance with law, by considering the objections as well as the documents related to the separate production and stock accounts maintained for the manufacture of finished products by using the raw materials purchased from local as also from outside the State,

produced by the petitioner. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

ssk.

To

The Assistant Commissioner(CT)(FAC),
Suramangalam Assessment Circle,
Salem

1 CC to Mr.R.Senniappan, Advocate SR.No. 15775

1 CC to the Government Pleader, SR.No. 15689

W.P.No.7691 of 2015

GJ (CO)
PSI (10.04.2015)