IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 01.07.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.22795 & 22796 of 2016 &
WMP Nos.19469 & 19470 of 2016

R.I.I.R.Steels Ltd.,
rep. by its Director Joseph Philip
.. Petitioner in both W.Ps.

Vs

The Assistant Commissioner
Thiruvottiyur Assessment Circle
No.791 T.H.Road
Chennai 600 019.
.. Respondent in both W.Ps.

Prayer in W.P.No.22795 of 2016 : The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified mandamus to call for the records on the file of the respondent in TIN:33301101119/2011-12 dated 25.05.2016, is illegal and against the principles of natural justice and fair play and direct the respondent to give sufficient and reasonable opportunity to file the objection and consider the pendency of BIFT proceedings.

Prayer in W.P.No.22796 of 2016 : The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified mandamus to call for the records on the file of the respondent in CST:637749/2012-13 dated 25.05.2016, is illegal and against the principles of natural justice and fair play and without jurisdiction and authority of law to the extent reversal of input tax credit under CST Act.

For Petitioner : Mr.T.Pramodkumar Chopda

For Respondent : Mr.S.Manokaran Sundaram
Additional Government Pleader

C O M M O M O R D E R

Heard Mr.T.Pramodkumar Chopda, learned Counsel appearing for the petitioner and Mr.S.Manokaran Sundaram, learned counsel appearing on behalf of the respondent and with the consent of learned counsel appearing on either side, these writ petitions are taken up for final disposal.

2.The petitioner who is a registered dealer under the provisions of the Tamil Nadu Value Added Tax 2006 and Central Sales

Tax, 1956, has filed these Writ Petitions, challenging the assessment orders for the years 2011-12 and 2012-13.

3.The only ground on which the impugned orders have been challenged is by contending that without affording an opportunity to the petitioner to submit their objections and before the expiry of the period granted for submitting the objections, the impugned orders have been passed.

4.On a perusal of the impugned orders, it is evidently clear that pre-revision notices were issued, granting fifteen days time to the petitioner to submit their objections. The petitioner received pre-revision notices on 11.5.2016 and therefore, the petitioner had time to submit their objections till 26.05.2016. However, the impugned orders have been passed one pay prior to that i.e. on 25.05.2016.

5.The learned Additional Government Pleader appearing for the respondent submitted that the petitioner may be given opportunity to submit their objections and contest the matter on merits.

6.In the light of the above factual position, this Court is inclined to direct the petitioner to treat the impugned assessment orders as show cause notices and submit their objections to the same within a period of fifteen days from the date of receipt of a copy of this order. On receipt of the objections, the respondent shall afford an opportunity of personal hearing to the petitioner and and complete the assessment, in accordance with law.

As this Court has directed the petitioner to treat the impugned orders as show cause notices, the question of insisting upon payment of tax and penalty as determined in the impugned orders cannot be made and they shall abide by the ultimate orders to be passed by the respondent in terms of the above directions.

The Writ Petitions are disposed of on the above terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

To
The Assistant Commissioner
Thiruvottiyur Assessment Circle
No.791 T.H.Road
Chennai 600 019.

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krd 20/7

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22796 of 2016