IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.07.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.26557 to 26563 of 2016
and
WMP.Nos.22746 to 22752 of 2016

M/s.M.S.R.Iron and Steel Industries
India (P) Ltd.,
rep. by its Director A.K.Balasubramanian
234-235, Tiruvengadaswamy Road,
R.S.Puram,
Coimbatore-641 002. ..Petitioner in all W.Ps.

Vs.

1.The Assistant Commissioner (CT),
R.S. Puram (East) Circle,
Coimbatore-641 018.

2.The Commercial Tax Officer,
Enforcement Group III,
Tirupur. ..Respondents in all WPs.

Prayer:- Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records of the first respondent in his proceedings in TIN No.33051943556 dated 30.06.2016 pursuant to the Assessment year 2007 to 2008, 2009-10, 2010-11, 2011-2012, 2012-2013, 2013-2014, 2014-2015 respectively and to quash the same as illegal.

For Petitioner in all WPs : Mr.K.R.Krishnan

For Respondent in all WPs : Mr.Manokaran Sundaram, Addl. Government Pleader

C O M M O N O R D E R

Herd Mr.K.R.Krishnan, learned counsel appearing for the petitioner and Mr.Manokaran Sundaram, learned Additional Government Pleader accepting notice for the respondent and with consent on either side, the Writ Petitions are taken up for final disposal at the admission stage itself.

2. The petitioner is a registered dealer on the file of the 1st respondent under the provisions of Tamil Nadu Value Added Tax Act, 2006 (hereinafter referred to as TNVAT Act) and Central Sales Tax Act, 1956 (hereinafter referred to as CST Act). In these Writ Petitions the petitioner is challenging the revised assessment orders for the years 2007-2008 to 2014-2015. Since the grounds raised in the Writ Petitions are identical and the impugned orders are also identical, the Writ Petitions are disposed of by a common order.

3. The short ground on which this Court is inclined to interfere with the Impugned Order is on the ground of non-application of mind and violation of principles of nature justice.

4. From the impugned assessment orders, it is evident that the 1st respondent issued pre-revision notice based on the report submitted by the Enforcement Wing Officials.

5. The petitioner submitted detailed objections which have been referred to in the impugned orders and after setting out the legal position in their objections, the petitioner has also submitted objection on facts. However, the 1st respondent did not discuss any of the objections raised by the petitioner and by a single line has overruled the objections and confirmed the proposal in the pre-revision notice.

6. The impugned orders are examples of abdication of power by the assessing officer as being without reasons.

7. In any event, the petitioner was not afforded opportunity of personal hearing, though they have stated several factual details in their objections. That apart, the 1st respondent cannot be solely guided by the report of the Enforcement Wing and at best, the report should be treated as an information, which would be the basis for issuance of pre-revision notice. After receipt of the pre-revision notice when the dealer files objections, the assessing officer, namely, the 1st respondent should have independently applied his mind and taken a decision.

8. Therefore, on all the above grounds, the impugned order call for interference. The Writ Petitions are allowed and the impugned orders are quashed. The matter is remanded to the 1st respondent for fresh consideration, who shall afford an opportunity of personal hearing to the petitioner, hear the petitioner, peruse all the documents that may be produced and

independently take a decision and should not be solely guided by the report of the Enforcement Wing officials. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(V)

//True Copy//

Sub Assistant Registrar

ssd

To

1.The Assistant Commissioner (CT),
R.S. Puram (East) Circle,
Coimbatore-641 018.

2.The Commercial Tax Officer,
Enforcement Group III,
Tirupur.

+1cc to M/s. K.R. Krishnan, Advocate, S.R.No.43165
+1cc to the Government Pleader, S.R.No.43240

MP(CO)
EU(05/08/2016)

W.P.Nos.26557 to 26563 of 2016
and
WMP.Nos.22746 to 22752 of 2016