IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.08.2016

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.Nos.28513 & 28514 of 2016
&
WMP Nos. 24622 & 24623 of 2016

M/s Jayachandran Alloys (P) Ltd.,
rep. by its Director P.Anbalagan
Coimbatore. ... Petitioner in both W.Ps.

.Vs.

1. The Assistant Commissioner (CT)
   Avinashi Assessment Circle
   Avinashi.

2. The Commercial Tax Officer
   (Enforcement) Group-I
   Tiruppur. ... Respondents in both W.Ps.

Common Prayer :Writ Petitions filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorari to call for the records of the first respondent in his proceedings in TIN No.3319-203547/2009-2010 & 2011-12 dated 05.07.2016 & 04.07.2016 and quash the same.

For Petitioner : Mr.K.R.Krishnan

For Respondents : Mr.S.Kanmani Annamalai
Additional Government Pleader

O R D E R

Heard Mr.K.R.Krishnan, learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader, accepting notice on behalf of the respondent. By consent, the Writ Petition are taken up for final disposal.

2.The petitioner-Company is a registered dealer under the provisions of the Tamil Nadu Value Added Tax, 2006. The petitioner has come forward with this Writ Petition, challenging the orders of assessment passed by the first respondent for the years 2009-2010 and 2011-2012.

3.The impugned orders have been passed as a result of an inspection conducted by the officials of the Enforcement Wing and in the course of inspection, certain defects were pointed out, which was the basis of the Pre-Revision Notice dated 29.07.2015. The petitioner has submitted his reply on 18.08.2015. The Assessing Officer while considering the reply has stated that the provision for filing revised return for the months of February 2010 and March 2010 were not filed in support of the claim of the dealer. Even at the time of claiming refund in Form 'W', the revised return was not filed. Similarly for the other defect, it was stated that the petitioner did not mention the month in which the excise duty difference occurs and also the party name with invoice number.

3.Thus, this is a case where the petitioner failed to produce necessary proof and details and therefore, the petitioner cannot challenge the impugned assessment orders bypassing the appellate remedy available under the Act. Therefore, the Writ Petitions are held to be not maintainable.

4.Accordingly, the Writ Petitions are dismissed. However, if the petitioner has the requisite documents/details, it is open to them to invoke the remedy available under the Act, by filing a Petition under Section 84 of the TNVAT Act or in the alternate, the petitioner may pursue the appellate remedy available under the Act. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

rpa Sub Assistant Registrar

To

1. The Assistant Commissioner (CT)
   Avinashi Assessment Circle
   Avinashi.

2. The Commercial Tax Officer
   (Enforcement) Group-I
   Tiruppur.

+1cc to Mr.K.R.Krishnan, Advocate, S.R.No.46865
+1cc to the Special Government Pleader(T), S.R.No.46889

VSN(CO)
CA(24/08/2016)