

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE:29.06.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.32814 of 2004 & WPMP.No.39716 of 2004

M/s.Jansee Steel Industries Pvt.Ltd
No.11, Mandapam Road,
Chennai 600 010
represented by its Managing Director
Authorised Signatory Mr.N.K.Jinnah

.. Petitioner

Vs.

1.The Commercial Tax Officer
Perambur-II, Assessment Circle
No.256, Paper Mills Road,
Perambur, Chennai 600 011.

2.The Chairman
Chennai Port Trust
Rajaji Salai, Chennai 600 001.

.. Respondents

Prayer:Petition filed under Article 226 of the Constitution of India, seeking for a Writ of certiorarified mandamus calling for the records to the impugned order dated 18.12.2003 Ref.Rc.No.2145/979/A3 passed by the 1st respondent authority seeking to attach and adjust the security furnished by the petitioner company with the 2nd respondent authority for the purpose of realising the sale tax dues of M/s.Jansee Steel Traders, a third party concern and quash the same and all consequential proceedings if any and consequently, direct the 1st respondent authority not to proceed against the petitioner company for the dues of M/s.Jansee Steel Traders.

For Petitioner : Mr.S.Thanka Sivan

For Respondents : Mr.Manokaran Sundaram
Addl. Government Pleader

ORDER

Heard Mr.S.Thanka Sivan, learned counsel for the petitioner and Mr.Manokaran Sundaram, learned Additional Government Pleader appearing for the respondents and with their consent, the writ petition is taken up for final disposal.

2.The petitioner has filed this writ petition challenging the proceedings of the 1st respondent dated 18.12.2003 by which the 1st respondent has directed the petitioner to clear the sales tax arrears of M/s.Jansee Steel Traders, which is to the tune of Rs.10,49,069/-. The 1st respondent has invoked his power to issue the impugned proceedings under Section 26 of the TNGST Act.

3.On a perusal of the impugned proceedings, it is evidently clear that without issuing any show cause notice and without conducting any enquiry, the 1st respondent has proceeded to make a demand and called upon the petitioner to pay the impugned payment by demand draft. In fact, after the receipt of the impugned proceedings, the petitioner has given a representation on 01.11.2004 stating that they are closely held private limited company and the shares are held by Mr.N.K.Jinnah and Mrs.J.Banu; they do not have any transactions whatsoever with M/s.Jansee Steel Traders and have no mutual business transaction and do not owe any money to the said concern. In view of the above facts, without adjudicating this issue, the 1st respondent could not have straight away issued the impugned proceedings.

5.In the light of the above, the Writ Petition is allowed and the impugned proceedings are quashed. However, it is open to the respondents to issue a show cause notice to the petitioner as well as M/s.Jansee Steel Traders and after conducting enquiry, proceed further in accordance with law, if there is a need to do so. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

sgl

To

1.The Commercial Tax Officer
Perambur-II, Assessment Circle
No.256, Paper Mills Road,
Perambur, Chennai 600 011.

2.The Chairman
Chennai Port Trust
Rajaji Salai, Chennai 600 001.

+1cc to M/s. S. Thanka Sivam, Advocate, S.R.No.36727

AD(CO)

EU(27/07/2016)