IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2016

CORAM:

THE HON 'BLE MR. JUSTICE T.S.SIVAGNANAM

Writ Petition No.34696 of 2016
& W.M.P.No.29887 of 2016

MI Steel Processing India Pvt. Ltd.,
Represented by Director, Makoto Katsuno,
SF No.16/6A & 6B Orgadam – Wallajabad High Road,
Varanavasi Village, Wallajabad,
Kancheepuram District – 631 064 ... Petitioner

Versus

1. The Assistant Commissioner (CT),
Kancheepuram Assessment Circle,
Kancheepuram – 631 502

2. The Additional Commissioner (RP),
Office of the Additional Commissioner
of Commercial Taxes,
Chepauk, Chennai – 600 005 ... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India, seeking for the issuance of a Writ of Certiorari to call for the records relating to Order TIN 33111644181/2013-14, dated 18.08.2016 and the consequential Urgent Notice TIN/33111644181/2013-14, dated 26.09.2016, passed by the first respondent and to quash the same as arbitrary and illegal.

For Petitioner : Mr. Joseph Prabakar

For Respondents : Mr. K.Venkatesh,
Government Advocate

O R D E R

Heard Mr.Joseph Prabakar, learned counsel for the petitioner and Mr.K.Venkatesh, learned Government Advocate for respondents. By consent of the learned counsel for both sides, the writ petition is taken up for final disposal.

2. The case of the petitioner has had a checkered history, as the petitioner had been before this Court, both before the learned Single Judge as well as the Hon'ble Division Bench, on an earlier occasion, pertaining to the same assessment year.

3. It may not be necessary to narrate all those facts and suffice to note that the petitioner has now filed a second Revision Petition, before the second respondent, as against the Original Order of Assessment and the second Revision Petition has been entertained by the Authority and numbered as R.P.No.52 of 2016. Along with the Revision Petition, the petitioner has also sought for an order of stay of collection of the TDS (Tax Deduction at Source). The Revision Petition is pending along with the prayer for stay. The petitioner has also given a representation to the second respondent on 25.08.2016, requesting for an early date for disposal of the Revision itself. The copy of the representation has been placed for consideration of the first respondent to show that the matter is now seized of by the second respondent. Nevertheless, the first respondent has issued the impugned demand. When the Revision Petition is pending before the second respondent, who is the second Revisional Authority, the first respondent ought not to have issued the impugned demand and seek to enforce the order of assessment. If that is allowed to be done, then the filing of the Revision Petition itself would be defeated and the prayer for stay before the Revisional Authority would become infructuous. Therefore, the first respondent ought to have awaited the decision of the second respondent, on the prayer for stay made by the petitioner before him.

4. Hence, the impugned notice shall remain stayed and there will be a direction to the second respondent to consider the petitioner's prayer for stay, which has been made in the Revision Petition in R.P.No.52 of 2016 and pass appropriate orders on merits and in accordance with law, as expeditiously as possible. It is also open to the second respondent to take up the main Revision Petition itself, subject to other matters, and in any event, till the orders are passed on the prayer for stay before the second respondent in the pending R.P.No.52 of 2016 or till the disposal of the main Revision Petition itself, whichever is earlier, the impugned notice shall remain stayed.

5. In the result, this writ petition is disposed of. No costs. Consequently, the connected WMP is closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

srk

To

1. The Assistant Commissioner (CT),
   Kancheepuram Assessment Circle,
   Kancheepuram - 631 502

2. The Additional Commissioner (RP),
   Office of the Additional Commissioner
   of Commercial Taxes,
   Chepauk, Chennai - 600 005.

+1cc to Mr.Joseph Prabakar, Advocate, S.R.No.56159
+1cc to the Government Pleader, S.R.No.56417

W.P.No.34696 of 2016
&
W.M.P.No.29887 of 2016

KS(CO)
CA(05/10/2016)