IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2016

CORAM :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.41776 & 41777 of 2016
& WMP.Nos.35761 to 35764 of 2016

Tvl.Ramesh Iron & Steel Company
India Private Limited, rep.by its
Director A.K.Balasubramanian ..Petitioner in both WP's

Vs

The Assistant Commissioner (CT),
R.S.Puram (East) Circle,
Coimbatore-18. ..Respondent in both WP's

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorarified Mandamus to call for the records of the respondent in his proceedings respectively in TIN.33141943555/2011-12 and 33141943555/2012-13, both dated 6.9.2016, quash the same and direct the Respondent to pass fresh orders after considering the objection filed by the petitioner after granting a personal hearing.

For Petitioner : Mr.K.R.Krishnan

For Respondent : Mr.K.Venkatesh, GA

COMMON ORDER

Mr.K.Venkatesh, learned Government Advocate accepts notice for the respondent. Heard both. By consent, the writ petitions are taken up for joint disposal.

2. The petitioner is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006. This is the second time the petitioner is before this Court challenging the assessment orders for the years 2011-12 and 2012-13.

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3. Earlier, the petitioner came up before this Court and filed W.P.Nos. 6337 and 6338 of 2016 challenging the assessment orders for the very same years on the ground that the petitioner's objections dated 16.10.2015 to the pre assessment notices were not considered. This Court, by order dated 22.2.2016, allowed the writ petitions, set aside the assessment orders and remanded the matters back for a fresh consideration by issuing the following directions :

> "3. Having regard to the submissions made by the learned counsel on either side, taking note of the fact that the respondent has not considered the objections filed by the petitioner while passing the impugned orders dated 1.2.2016, the orders passed by the respondent are liable to be set aside. Accordingly, the impugned orders dated 1.2.2016 are set aside and the matter is remanded back to the respondent for fresh consideration. The respondent is directed to consider the objections filed by the petitioner and decide matter afresh, after affording an opportunity of personal hearing to the petitioner.
>
> 4. With these observations, the writ petitions are allowed."

4. Thus, in terms of the above directions, the respondent was required to consider the objections filed by the petitioner and decide the matter afresh after affording an opportunity of personal hearing. Unfortunately, the respondent - Assessing Officer failed to understand the purport and tenor of the direction issued in the earlier writ petitions. It is not known as to whether the Assessing Officer deliberately passed the impugned orders or was unable to understand the direction issued by this Court. In any event, the impugned orders, having been passed in total violation of the order and direction issued in the earlier writ petitions, deserve to be set aside. For non compliance of the direction issued by this Court, action for contempt could have been initiated by this Court. However, this Court does not propose to do so.

5. Accordingly, the writ petitions are allowed, the impugned orders are set aside and the matters are remanded back to the respondent for a fresh consideration with a direction to the respondent to consider the petitioner's objection dated 16.10.2015, received by the office of the respondent on

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26.10.2015, afford an opportunity of personal hearing and redo the assessments in accordance with law, within a period of three weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

TO

The Assistant Commissioner (CT),
R.S.Puram (East) Circle, Coimbatore-18.

+ 1 cc to Special Government Pleader Sr.70059
+ 1 cc to Mr.K.R. Krishnan, Advocate Sr.69839

WP.Nos.41776 & 41777
of 2016

RSY(CO)
Eu 05.12.16

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