In the High Court of Judicature at Madras

Dated : 20.9.2017

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.25168 and 25169 of 2017
& WMP.Nos.26607 and 26608 of 2017

Best Metal Alloys, rep.by its
Authorized Signatory Anisha Rehan ...Petitioner in both the petitions

Vs

The Commercial Tax Officer, Nolumbur
Assessment Circle, No.176-B, MTH Road,
Villivakkam, Chennai - 600 049 ...Respondent in both the petitions

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorarified Mandamus to call for the impugned proceedings of the respondent passed in TIN No.33331345979/2014-15 dated 26.7.2017 and TIN No.33331345979/2015-16 dated 30.8.2017 and quash the same and further direct the respondent to redo the assessment in accordance with law after providing the personal hearing to the petitioner.

For Petitioner : Mr.N.Murali
For Respondent : Mrs.Narmadha Sampath, SGP

C O M M O N O R D E R

Heard Mr.N.Murali, learned counsel for the petitioner and Mrs.Narmadha Sampath, learned Special Government Pleader accepting notice for the respondent. By consent, the writ petitions are taken up for joint disposal.

2. The petitioner is before this Court challenging the orders of assessment passed by the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 for the years 2014-15 and 2015-16.

3. The learned counsel for the petitioner submitted that the major issue, which arises for consideration, is with regard to mismatch based upon the details culled out from the official website. The other issue is with regard to classification of the

product. With regard to the issue of mismatch, the petitioner's contention is that if an opportunity is given, they would be able to provide details and if any clarification is required, they will also seek the same from the Assessing Officer and submit a comprehensive reply.

4. With regard to classification of the product, on the directions of the Assessing Officer, the petitioner produced the industrial input certificate from the purchaser. Since there is no statutory form, in which, such certificate should be produced, it is in the nature of declaration given by the purchaser. However, the Assessing Authority was not satisfied with the declaration. Therefore, it is contended that if the declarations are not to the satisfaction of the Assessing Officer or there is any error, the Assessing Officer should have returned the certificate so as to enable the petitioner to rectify the defects and represent the same.

5. In my considered view, the issue relating to classification cannot be adjudicated in a writ petition and it is left open to the Assessing Officer to decide the same. However, if the Assessing Officer is of the opinion that the industrial input certificate does not contain requisite details, he may return the same to the dealer so as to enable them to represent the certificate in a proper manner with full details. With regard to the mismatch issue, it appears that the petitioner has now become wiser after the assessment orders were passed and is ready and willing to produce all the requisite records. In the light of the above, this Court is inclined to grant one opportunity to the petitioner to go before the Assessing Officer.

6. Accordingly, the writ petitions are disposed of with a direction to the petitioner to go before the Assessing Officer by filing petitions under Section 84 of the said Act and in the petitions to be filed, the petitioner is at liberty to seek any details and after obtaining the details, they can submit a comprehensive reply on the mismatch issue and also seek for return of alleged industrial input certificate, which shall be considered by the Authority and returned to the dealer to represent the same with due corrections. On such petitions being filed, the respondent is directed to take note of the observations made in this order and take a decision on merits and in accordance with law, after affording an opportunity of personal hearing to the petitioner. The petitioner shall file the petitions under Section 84 of the said Act with one week from the date of receipt of a copy of this order and the respondent shall take a decision and pass appropriate orders as expeditiously as possible. Till then, no coercive action shall

be initiated against the petitioner. No costs. Consequently, the above WMPs are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To
The Commercial Tax Officer,
Nolambur Assessment Circle, No.176-B, MTH Road, Villivakkam,
Chennai-49.

+2 ccs to Mr.N.Murali Advocate sr 68823

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