IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.01.2017

CORAM

THE HONOURABLE Mr.JUSTICE RAJIV SHAKDHER

W.P.No.44801 of 2016

Essar Steel India Limited
Rep. by its Authorised Signatory
Jiten Waghela,
No.27, KM Surat, Hazira Road,
Surat District,
Gujarat 394 270. ... Petitioner

Vs

Joint Commissioner [CT],
Coimbatore Division,
Dr.Balasundaram Road,
Commercial Taxes Building,
Coimbatore 641 018. ... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus to call for the impugned proceedings of the respondent passed in RP.No.38/2015 [2014-15] date of order 21.10.2016 and quash the same and further direct the respondent to re-hear the Revision Petition.

For Petitioner : Mr.N.Murali

For Respondent : Mr.K.Venkatesh,
Government Advocate

O R D E R

1. Issue notice. Mr.K.Venkatesh, learned Government Advocate, accepts notice on behalf of the respondent.

2. With the consent of counsels for parties, the captioned Writ Petition is taken up for final hearing and disposal.

3. The petitioner for the moment, is confining its challenge to one single ground, which is, that there has been no application of mind, inasmuch as the submissions made before the respondent were not considered by him. For this purpose, my

attention has been drawn not only to the notes on submission, which is appended at page No.31 of the typed set of documents, but also to the index to the typed set of papers, to demonstrate that documents were filed, which were not considered by the respondent.

4. In particular, in order to buttress the aforesaid submission, learned counsel for the petitioner says that even though the Advocate's appearance was recorded in the first sheet of the impugned order, the respondent, in the last paragraph of the order, has stated that the petitioner's authorised representative had neither appeared nor produced documents in support of its claim.

5. To be noted, this is a case, where the petitioner assails the levy of tax and compounding fee, qua the subject goods, which were detained at one point in time at the Check Post. The petitioner claims that the entire tax and compounding fee was paid, in order to secure the release of the subject goods. The petitioner has assailed the levy of tax and compounding fee, as according to it, the levy was illegal. It is this contention, which was sought to be agitated before the respondent, in the revision petition.

6. Having heard the learned counsel for the parties and perused the record, the impugned order does not lend confidence that there has been application of mind by the respondent, while passing the same. The reason being that the respondent, even after recording the appearance of the representative of the petitioner in the first sheet of the impugned order, curiously observes that there was no representation on its behalf in the last paragraph of the impugned order. This raises a doubt as to whether, while passing the impugned order, all submissions of the petitioner were duly noted. The fact that documents were filed is reflected upon perusal of the index of the typed set of documents, to which, I have made a reference above.

6.1. Mr.Venkatesh, in rebuttal, could not dispute these assertions made on behalf of the petitioner, which were apparent from the record placed before the Court.

7. Therefore, in these circumstances, I am inclined to set aside the impugned order, with liberty to the respondent to pass a fresh order, after giving due opportunity to the petitioner's authorised representative. For this purpose, the petitioner's authorised representative will appear before the respondent on 23.01.2017 at 11.00 a.m. In case, the aforementioned date and time is not convenient to the respondent, he will have liberty to fix another date, after giving due notice to the petitioner. Needless to say the respondent will pass a speaking order.

8. The Writ Petition is accordingly disposed of, in terms of the aforesaid directions. There shall, however, be no order as to costs.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

gya

To:

The Joint Commissioner(CT),
Coimbatore Division, Dr. Balasundaram Road,
Commercial Taxes Building, Coimbatore 641 018.

+1cc to The Special Government Pleader Taxes sr.442

+1cc to Mr.N.Murali, Advocate sr.508

W.P.No.44801 of 2016

ug(co)
ss(18/01/2017)