In the High Court of Judicature at Madras

Dated : 18.4.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.9577 & 9578 of 2018
and WMP.Nos.11493 & 11494 of 2018

TJSV Steel Fabrication &
Galvanising (India) Ltd.,
formerly known as M/s.TJSV
Petroleum Products Ltd. rep.
by its Manager-Administration
Mohankumar ...Petitioner

Vs

1.The Assistant Commissioner (CT),
Udumalpet North Circle, Udumalpet.

2.The Appellate Deputy Commissioner
(ST) (FAC), Pollachi. ...Respondents

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorarified Mandamus

(i) to call for the records on the files of the second respondent herein in S.P.No.02/2018 arising out of the appeal of the petitioner in VAT AP.No. 27/2018 dated 11.4.2018 for the assessment year 2010-11, quash the same while directing the second respondent herein to re-dispose the stay application in SP.No.02/2018 dated 11.4.2018 arising out of VAT AP.No. 27/2018 (WP.No.9577 of 2018) and

(ii) to call for the records on the files of the second respondent herein in S.P.No.01/2018 arising out of the appeal of the petitioner in VAT AP.No. 16/2018 dated 21.3.2018 for the assessment year 2009-10, quash the same while directing the second respondent herein to re-dispose the stay application in SP.No.01/2018 dated 21.3.2018 arising out of VAT AP.No.16/ 2018 (WP.No.9578 of 2018).

For Petitioner : Mr.N.Prasad

For Respondents : Mr.M.Hariharan, AGP

COMMON ORDER

Mr.M.Hariharan, learned Additional Government Pleader accepts notice for the respondents. Heard both. By consent, the writ petitions are taken up for final disposal.

2. The petitioner is aggrieved by the interim orders granted by the second respondent herein in the two appeals filed by the petitioner namely VAT AP.Nos.16/2018 and 27/2018. Those two appeals were directed against the orders of assessment passed by the first respondent for the years 2009-10 and 2010-11 respectively.

3. The learned counsel for the petitioner submits that majority of the issues, which are the subject matter of assessment for the year 2010-11, are similar to the assessment made on the petitioner for the year 2011-12. The assessment for the year 2011-12 was challenged before this Court in W.P.No. 7983 of 2018, which was disposed of by this Court by order dated 05.4.2018 wherein the petitioner has been directed to pay a sum of Rs.25 lakhs, which is roughly equivalent to 25% of the disputed tax and on such payment, this Court directed the Appellate Authority to dispose of the appeal petition. According to the learned counsel, the time limit prescribed for payment of the said sum of Rs.25 lakhs is yet to be over and the petitioner is in the process of complying with the said direction. After compliance of the said condition, the appeal for the assessment year 2011-12 would be heard on merits.

4. Therefore, it is further submitted by the learned counsel that similar directions may be issued in so far as the assessment for the year 2010-11 is concerned and the interim order dated 11.4.2018 may be suitably modified. In so far as the interim order granted by the second respondent dated 21.3.2018 for the assessment year 2009-10 is concerned, the petitioner is ready and willing to pay further 25% of the disputed tax, which being Rs.2,32,552/- and the petitioner may be permitted to execute a personal bond for the remaining amount of tax and penalty instead of furnishing bank guarantee. A similar request has also been made for the assessment year 2010-11 for executing a personal bond instead of furnishing bank guarantee for the balance of tax and entire penalty.

5. Thus, considering the facts and circumstances of the case and taking note of the earlier order passed by this Court in W.P.No.7983 of 2018 dated 05.4.2018, the above writ petitions can be disposed of with a slight modification of the respective impugned orders.

6. Accordingly, W.P.No.9577 of 2018 is disposed of by partly modifying the order dated 11.4.2018 passed by the second respondent in S.P.No.02/ 2018 in VAT AP.No.27/2018 and directing the petitioner to pay a of Rs.3,00,000/- (Rupees three lakhs only) towards a portion of the tax demanded within a period of three weeks from the date of receipt of a copy of this order. The petitioner is directed to execute a personal bond for the balance of tax demanded and entire penalty and shall keep the bond alive till the disposal of the appeal by the second respondent. If this condition is complied with, the demand of balance tax and entire penalty shall be kept in abeyance. No costs. Consequently, the connected WMP is closed.

7. W.P.No.9578 of 2018 is disposed of by partly modifying the order dated 21.3.2018 passed by the second respondent in S.P.No.01/2018 in VAT AP.No.16/2018 and directing the petitioner to pay a of Rs.2,32,552/- (Rupees two lakhs thirty two thousand five hundred and fifty two only) within a period of three weeks from the date of receipt of a copy of this order. The petitioner is directed to execute a personal bond for the balance of tax demanded and entire penalty and shall keep the bond alive till the disposal of the appeal by the second respondent. If this condition is complied with, the demand of balance tax and entire penalty shall be kept in abeyance. No costs. Consequently, the connected WMP is closed.

Sd/-
Deputy Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1.The Assistant Commissioner (CT), Udumalpet North Circle, Udumalpet.

2.The Appellate Deputy Commissioner (ST) (FAC), Pollachi.

+1cc to Mr.N.Inbarajan, Advocate, S.R.No.28649

+1cc to the Special Government Pleader, S.R.No.29234

W.P.Nos.9577 & 9578 of 2018 &
WMP.Nos.11493 & 11494 of 2018

RRK(24/04/2018)