IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2018

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.11398 of 2018
and W.M.P.No.13307 of 2018

Tvl.Rajeshwar Metals,
Rep. by its Proprietor, Mr.Hansaram,
No.108, Linghi Chetty Street,
Chennai-600 001. ... Petitioner

vs.

The Commercial Tax Officer,
Harbour Assessment Circle,
Chennai-600 001. ... Respondent

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records on the file of the respondent in TIN 33810021568/2013-14 dated 14.12.2015 and to quash the same as illegal, contrary to the provisions of the Act, laid down by this Court and against the principles of natural justice.

For Petitioner : Mr.T.Pramodkumar Chopda

For Respondent : Mrs.G.Dhanamadhri,
Government Advocate (Taxes)

O R D E R

Heard Mr.T.Pramodkumar Chopda, learned counsel for the petitioner and Mrs.G.Dhanamadhri, learned Government Advocate (Taxes) for the respondent. With consent on either side, this writ petition is taken up for final disposal.

2. The petitioner has filed this writ petition challenging an order of assessment dated 14.12.2015 for the assessment year 2013-14. The respondent has given written instructions justifying the order of assessment as framed. However, I find that with regard to the reversal of input tax credit under Section 19(15) of the Tamil Nadu Value Added Tax Act, 2006 (hereinafter referred to as “the Act”), atleast for two transactions, the respondent has committed mistake with

regard to the account, and because of shift of the decimal point, the amount has been inflated resulting in a huge reversal of input tax credit.

3. Furthermore, the petitioner would state that the registration certificates of the selling dealer were valid at the relevant point of time and he was also in possession of the returns filed by fault selling dealers at the relevant point of time. Further, the invoices also clearly show as to the mode of delivery and the payments were effected through banking channels. Therefore, the learned counsel for the petitioner submitted that, if proper opportunity had been granted, the petitioner would have established the genuineness of the transaction.

4. With regard to the second issue, viz., difference in turnover between the annexure-I and that of the dealer and to that of the annexure-II, I find that the respondent has not given any detail, which is a mandatory requirement, otherwise an effective reply cannot be filed by the dealer, since the respondent is proposed to revise the turnover based on information available in the web portal of the Department and the petitioner has no privy to such information and therefore, principles of natural justice would require the respondent that full information is provided to the petitioner to enable them to submit an effective reply. Apart from that, I find that opportunity of personal hearing has not been granted, if it had been granted, atleast the clerical errors in the impugned order could have been avoided. Thus, for the above reasons, this Court is inclined to interfere with the impugned proceedings.

5. In the result, this writ petition is allowed, the impugned order is set aside and the matter is remanded to the respondent for fresh consideration, who shall afford an opportunity of personal hearing to the petitioner, consider the reply dated 16.03.2015, as well as the document that the petitioner may produce at the time of personal hearing and redo the assessment in accordance with law. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

abr

To

The Commercial Tax Officer,
Harbour Assessment Circle,
Chennai-600 001.

Copy to
The Section Officer,
ER Section, High Court,
Madras-104

+1cc to Mr.T.Pramodkumar Chopda, Advocate, S.R.No. 37424
+1cc to the Spl.Government Pleader (Taxes), S.R.No. 37647

W.P.No.11398 of 2018

SS(CO)

BM 02/07/2018