IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.24617 of 2018
and
W.M.P.No.28664 of 2018

Tvl.Aero Steel Corporation,
Represented by its Proprietor, S.M.Ismail,
No.29/1, Sembudoss Street,
Chennai - 600 001.
... Petitioner

Vs

The Commercial Tax Officer,
Broadway Assessment Circle,
No.199, Thambu Chetty Street,
Chennai - 600 001. . ... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a WRIT OF CERTIORARI calling for the records on the files of the respondent in TIN/33930060496/2013-14 dated 25.05.2018 and quash the same as being without jurisdiction, authority of law and contrary to the principles of natural justice.

For Petitioner : Mr.R.Senniappan
For Respondent : Mr.M.Hariharan,
Additional Government Pleader (Tax)

O R D E R

Mr.M.Hariharan, learned Additional Government Pleader (Tax) takes notice for the respondent. By consent of the parties, this writ petition is taken up for final disposal at the admission stage itself.

2. The petitioner is aggrieved against the order of assessment dated 25.05.2018 passed in respect of the assessment year 2013-14. The Assessing Officer concluded the assessment and imposed tax and penalty on the petitioner, by finding that the petitioner has not filed 'C' Forms in respect of turn over to the tune of Rs.7,80,658/-.

3. The grievance of the petitioner before this Court is that the very finding of the Assessing Officer as if the petitioner had not submitted 'C' Forms, is factually incorrect, since the petitioner had already filed 'C' Forms in two sets, one on 06.01.2015 and another on 16.06.2015, well before passing the assessment order. Therefore, it is contended that the assessment was made with total non-

application of mind, without looking into the 'C' Forms already filed by the petitioner.

4. The learned counsel for the petitioner invited this Court's attention to the relevant page in the letter delivery book of the petitioner to indicate that the 'C' Forms were submitted on those two dates.

5. The learned Additional Government Pleader (Tax) appearing for the respondent, by going through the ledger entry made on 06.01.2015 and 16.06.2015, which is placed before this Court, fairly submitted that the Assessing Officer may be directed to re-consider the matter once again on merits, by taking into account of those 'C' Forms submitted by the petitioner.

6. Perusal of the order of assessment would show that the Assessing Officer has chosen to pass the said order only on the reason that the petitioner did not file 'C' Forms in respect of the turn over of Rs.7,80,658/-. On the other hand, as pointed out by the petitioner, it is seen that two sets of 'C' Forms were filed before the Assessing Officer on the above said dates and if those 'C' Forms are already there on record, the Assessing Officer should have considered the same and thereafter, finalized the assessment. On the other hand, the Assessing Officer has proceeded to pass the impugned order as though the petitioner has not filed 'C' Forms at all. Therefore, it is evident that the Assessing Officer has passed the impugned order without looking into the relevant documents filed by the petitioner viz., 'C' Forms as stated supra.

7. Therefore, this Court is of the view that the Assessing Officer has to re-do the assessment once again after considering the 'C' Forms already submitted by the petitioner as stated supra. Accordingly, this writ petition is allowed and the impugned order of assessment is set aside. Consequently, the matter is remitted back to the Assessing Officer to re-do the assessment, by considering the 'C' Forms already submitted by the petitioner and pass appropriate orders on merits and in accordance with law, after giving due opportunity of hearing to the petitioner as well. The whole exercise shall be done by the Assessing Officer within a period of three weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

krk/mk

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

To
The Commercial Tax Officer,
Broadway Assessment Circle,
No.199, Thambu Chetty Street,
Chennai - 600 001.

+1cc to Mr.R.Senniappan, Advocate SR.NO.64848
+1cc to Spl.Government Pleader SR.NO.65163

sm:27.9.2018

W.P.No.24617 of 2018