IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.01.2018

Coram

The Hon'ble Mr.Justice T.S.Sivagnanam

Writ Petition No.1405 of 2012 and

M.P.No.1 of 2012

Tvl.Jandu Steel Industries,
Rep.by its partner Mr.Jagtar Singh Jandu,
No.341, M.K.N.Road,Alandur, Chennai 16. ...Petitioner

Vs.

The Commercial Tax Officer,
Alandur Assessment Circle,
62 A, Pudupet Street,
Alandur, Chennai 16. ...Respondent

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus, calling for the records on the files of the respondent in TNGST/0840238/2005 - 06, dated 10.05.2010 and quash the same being illegal, invalid, without jurisdiction and violated the principles of natural justice and direct the respondent to dispose the petitioner's representation, dated 01.12.2011 and the petition under Section 55 of the TNGST Act, dated 12.12.2011.

For Petitioner : Mr.D.Vijayakumar

For Respondent : Mr.M.Hariharan
Additional Government Pleader

O R D E R

Heard Mr.D.Vijayakumar, the learned counsel appearing for the petitioner and Mr.M.Hariharan, the learned Additional Government Pleader for the respondent.

2. The petitioner has filed this Writ Petition, challenging an order of assessment passed by the respondent under the provisions of Tamil Nadu General Sales Tax Act, 1959, (hereinafter to referred as 'TNGST Act') for the assessment year

2005-06, and to direct the respondent to dispose of the application filed by the petitioner under Section 55 of the TNGST Act.

3. Two issues arise for consideration in this Writ Petition. One pertains to non production of Form-H declaration and the other pertains to the claim for second sales exemption.

4. The learned counsel appearing for the petitioner has produced the original of Form-H declaration for perusal of the Court and the original letter, dated 01.12.2011, by which, the petitioner is stated to have furnished the Form- H declaration, and it appears that the respondent refused to receive the same. It is further submitted that the Principal Commissioner and Commissioner of Tax has issued a circular, stating that the declaration in Form-H should be accepted and there is no time frame, within which, they have to be furnished, as there are several factors, which may cause delay in filing Form-H declaration, since it has to be supplied by the other end dealer.

5. In the light of the above, the Writ Petition is disposed of by directing the respondent to take on file, the Application filed under Section 55 of the TNGST Act, dated 12.12.2011, afford an opportunity of personal hearing to the petitioner, verify the Form-H declaration and other documents, which the petitioner may produce to substantiate their claim for second sale exemption and re-do the assessment in accordance with law. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/
Assistant Registrar

/True copy/

Sub Assistant Registrar

To

The Commercial Tax Officer,
Alandur Assessment Circle,
62 A, Pudupet Street,
Alandur, Chennai 16.

+1cc to Mr.D.Vijayakumar Advocate SR.No.4253
+1cc to the Government Pleader SR.No.4931

Writ Petition No.1405 of 2012

KP 26.02.2018