IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2018

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.2884 of 2012 & M.P.No.1 of 2012

M/s.BSR Steel Alloys Private Ltd.,
rep. by its Director,
No.33, Katchaleeswara Agraharam,
Chennai-600 001. ... Petitioner

Vs.

The Assistant Commissioner (CT),
Harbour IV Assessment Circle,
Chennai. ... Respondent

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, to call for the impugned proceedings of the respondent in TIN/Year 33300061279/2010-11 dated 20.01.2012 and quash the same, as the same has been passed contrary to the provisions of the Tamil Nadu Value Added Tax Act, 2006 and also against the principles of natural justice.

For Petitioner : Mr.P.Rajkumar

For Respondent : Mr.M.Hariharan,
Additional Government Pleader

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O R D E R

Heard Mr.P.Rajkumar, learned counsel for the petitioner and Mr.M.Hariharan, learned Additional Government Pleader for the respondent.

2.The petitioner is aggrieved by the impugned assessment order by which the respondent has reversed the input tax credit availed by the petitioner on the ground that they have had transactions with seven dealers, whose registration certificates have been cancelled. Admittedly, the petitioner did not respond to the revision notices issued from time to time. Therefore, the respondent/assessing officer had no opportunity to know what was the stand that the petitioner desires to take before the authority. Since there was no reply, the assessing officer confirmed the proposal in notice and passed the impugned order.

3.Learned counsel for the petitioner submitted that the only allegation as pointed out in the impugned order is that the petitioner has had transactions with seven dealers, whose registration certificates have been cancelled. However, the said observation appears to be factually incorrect and to substantiate the same, the learned counsel for the petitioner has drawn the attention of this Court to the e-returns filed by those seven dealers. However, the verification has to be done by the assessing officer and not by a Writ Court. Therefore, necessarily the petitioner has to go before the assessing officer and establish that the transactions made by them are with existing dealers, whose registration certificates were valid, as they have filed online monthly returns.

4.Accordingly, this writ petition is allowed, the impugned order is set aside and the matter is remanded to the respondent for fresh consideration. The petitioner shall file their objections to the revision notice within a period of fifteen days from the date of receipt of a copy of this order. After which, the respondent shall afford an opportunity of personal hearing to the petitioner, peruse the documents produced by the petitioner and re-do the assessment. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-III)

//True copy//

Sub Assistant Registrar

abr

To
The Assistant Commissioner (CT),
Harbour IV Assessment Circle,
Chennai.

+1cc to Mr.P.Rajkumar, Advocate SR.No.4330
+1cc to Government Pleader SR.No.4935

W.P.No.2884 of 2012

CO()
GMD(10/02/2018)