IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.11.2019

CORAM

THE HON'BLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.NO.96 OF 2019
AND
W.M.P.NO.118 OF 2019

Sakthi Ferro Alloys (I) Private Limited
Represented by its Director
K.A.Anandh ...Petitioner

vs.

1. The Appellate Deputy Commissioner (CT)
Chennai (Central)
CT New Building, Greams Road,
Chennai-6. .. 1st Respondent

2. The Assistant Commissioner (CT)
Vadapalani Assessment Circle
CT New Building, Chennai-6. .. 2nd Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the first respondent in APV No.85/2015 dated 15.10.2018 and quash the same and direct the first respondent to pass appropriate orders on the documents filed before the 1st respondent during the hearing.

For Petitioner : Mr.R.Kumar

For Respondents : Mr.Hariharan
Additional Government Pleader (Tax)

O R D E R

Challenge made in this writ petition is against the order of the first respondent dated 15.10.2018, partly dismissing and partly allowing the appeal filed by the petitioner against the order of assessment of the second respondent dated 31.10.2014 relevant to the assessment year 2009-2010.

2. Heard both sides.

3. The grievance of the petitioner before this Court is that when the documentary evidences were produced before the Appellate Authority at the time of hearing the appeal, he has chosen to dismiss the appeal partly mainly on the reason that the petitioner has not produced any documentary evidences in support of their claim. Therefore, it is contended that the first respondent has mechanically passed the impugned order without reference to the documents already filed.

4. The learned counsel for the petitioner specifically contended that he himself has appeared before the first respondent and argued the appeals by filing documents and therefore, the observation made by the Appellate Authority as if the documents are not filed, is factually incorrect.

5. The learned Additional Government Pleader appearing for the respondents, on the other hand, submitted that a perusal of the file does not show the availability of the documents said to have been filed by the petitioner before the first respondent.

6. There is no dispute to the fact that aggrieved against the order of assessment, the petitioner preferred the appeal before the first respondent and it is stated that the petitioner has already paid 60% of the tax liability during pendency of the appeal. It is further seen that the Appellate Authority has chosen to dismiss the appeal partly only on the reason that the petitioner has not produced the documents in support of their claim. On the other hand, it is specifically contended by the learned counsel for the petitioner that he himself has appeared and produced the documents before the first respondent. Since such contentions are raised and in view of the fact that the petitioner seems to have paid the substantial portion of the tax liability, this Court is of the view that interest of justice would be met, if one more opportunity is given to the petitioner to appear before the first respondent and produce the documents in support of their claim once again, so as to enable the first respondent to pass fresh orders on merits and in accordance with law.

7. Accordingly, this Writ Petition is allowed and the impugned order is set aside. Consequently, the matter is remitted back to the first respondent to pass fresh orders on merits and in accordance with law, after considering the documents to be furnished by the petitioner once again within a period of two weeks from the date of receipt of a copy of this order. On receipt of such documents and after hearing the petitioner, the first respondent shall pass fresh orders on merits and in accordance with law within a period of eight weeks

thereafter. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

mk

To

1.The Appellate Deputy Commissioner (CT)
Chennai (Central)
CT New Building, Greams Road,
Chennai-6.

2.The Assistant Commissioner (CT)
Vadapalani Assessment Circle
CT New Building, Chennai-6.

+1cc to Mr.R.Kumar, Advocate, S.R.No.92373

W.P.No.96 of 2019

JP(CO)
CS/12/12/2019