IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.09.2019

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P. No.5159 of 2012 and
M.P. No.2 of 2012

M/s.MMS Steel & Power Pvt. Limited,
rep. by its Senior Manager .. Petitioner

-vs-

1.The State of Tamil Nadu,
represented by its Secretary to
the Government,
Industries Department,
Secretariat,
Fort St. George,
Chennai-600 009.

2.The Director,
Chief Electrical Inspector to
Government of Tamil Nadu,
Thiru Vi Ka Industrial Estate,
Guindy, Chennai-32.

3.The Electrical Inspector,
13, NM Bungalow Road,
TVS Tollgate,
Trichy-620 020. .. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorari calling for the records comprised in the impugned order in Lr. No.2737/E.Tax/E1/D/2011 dated 27.10.2011 on the file of the third respondent and quash the same as being arbitrary and illegal.

For Petitioner : Ms.Janani Shankar for
Mr.Satish Parasaran

For respondents: Ms.P.Rajalakshmi,
Additional Government Pleader

ORDER

The writ petition has been filed challenging the correctness of the impugned letter No.2737/E.Tax/E1/D/2011 dated 27.10.2011 issued by the third respondent.

2.Learned counsel appearing for the petitioner would submit that without giving any detail and also opportunity of hearing, the present impugned letter has been issued. When a similar letter has been issued against the petitioner, the petitioner has filed a Writ Petition in W.P. No.5140 of 2012 and the same was dismissed. As against the same, when a Writ Appeal in W.A. No.2553 of 2012 was filed by the petitioner, this Court accepting the case of the petitioner that there was no opportunity of hearing given to the petitioner, setting aside the similar impugned letter, remanded the matter back to the respondents to decide the issue in accordance with law, after providing sufficient opportunity to the petitioner within a period of two months.

3.Learned Additional Government Pleader agreeing to the said factum, would submit that the issue has been covered in W.A. No.2553 of 2012 by judgment dated 02.07.2018.

4.It is relevant to extract paras 16.3 and 17 as under:

> 16.3.It is the main contention of the learned counsel for the petitioner that the nature of the enquiry contemplated in terms of the provision granting exemption from payment of electricity tax is quasi judicial in nature and therefore the opportunity of hearing ought to have been given to the petitioner especially when the petitioner demanded details based on which the impugned direction was issued asking the petitioner to pay tax. It is specifically pointed out that after the impugned order was served, the petitioner sent a detailed reply to the third respondent by the letter dated 24.11.2011 explaining that the petitioner is entitled to exemption. The existence of G.O's granting exemption was also brought to the notice of the respondent. Copy of the records were also sought for to find out the basis on which the amount demanded has been arrived at. Under the circumstances the respondent ought to have provided with an opportunity of hearing. Only when an opportunity is given, the burden of proof which is allegedly on the part of the petitioner, as contended by the learned counsel for the respondent can be

discharged. Therefore, it is a fit case to set aside the impugned order and remand it back to the respondents with a direction to provide sufficient opportunity of hearing to the petitioner and to decide the issues in accordance with law.

17.In the result, the writ appeal is allowed. The order dated 30.07.2012 passed by the learned Single Judge in Writ Petition No.5140 of 2012 is set aside. The matter is remitted back to the respondents to decide the issue in accordance with law, after providing sufficient opportunity to the petitioner Company, within a period of two months from the date of receipt of a copy of this judgment. No costs. Consequently, connected miscellaneous petition is closed.

5.In the light of the above judgment dated 02.07.2018 passed in W.A. No.2553 of 2012, the impugned order is set aside and the writ petition is allowed. The matter is remitted back to the respondents to decide the issue in accordance with law, after providing sufficient opportunity to the petitioner, within a period of two months from the date of receipt of a copy of this order. Consequently, connected M.P. is closed. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1.The State of Tamil Nadu,
represented by its Secretary to
the Government,
Industries Department,
Secretariat, Fort St. George,
Chennai-600 009.

2.The Director,
Chief Electrical Inspector to
Government of Tamil Nadu,
Thiru Vi Ka Industrial Estate,
Guindy, Chennai-32.

3.The Electrical Inspector,
13, NM Bungalow Road,
TVS Tollgate, Trichy-620 020.

+1cc to Government Pleader sr.77743

W.P. No.5159 of 2012 and
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nr 25/10/2019