IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.11.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.13424 of 2018
and
W.M.P.No.15818 of 2018

M/s.Madanlal Steels and Forgings (P) Ltd.,
Represented by its Director
Mr.Birendra Kumar Jalan ... Petitioner

vs.

The State Tax Officer
Alandur Assessment Circle
No.12, Vegagiri Street, Alandur
Chennai-600 016. ... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorari, to call for the impugned proceedings of the respondent in TIN:33240840998/2015-2016 dated 25.04.2018 and quash the same as passed contrary to the provisions of the TNVAT Act and against the principles of natural justice.

For Petitioner : Mr.P.Rajkumar

For Respondent : Mr.M.Hariharan
Additional Government Pleader

O R D E R

This writ petition is filed challenging the order dated 25.04.2018 relevant to the assessment year 2015-2016.

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

3. The grievance of the petitioner is that the Assessing Officer has passed the impugned order without reference to the objections filed by the petitioner dated 29.05.2017 and 13.11.2017. Therefore, it is contended that non-consideration of those objections has resulted in miscarriage of justice, apart from violation of the principles of natural justice. It is seen that the Assessing Officer has taken the issue viz., Interstate stock transfer to the tune of Rs.2,49,28,836/- and issued a notice of proposal dated 30.01.2017, proposing to reverse the ITC of Rs.10,36,825/-. The petitioner filed a reply on 15.02.2017 informing that the stock transfer referred to in the notice is in respect of the imported materials to Gujarat and not from the local purchase. Thereafter, the Assessing Officer issued a notice dated 23.03.2017 and called upon the petitioner to produce the connected purchase, sales and stock details for verification. It is stated that in response to the said notice, the petitioner sent a reply on 29.05.2017 enclosing a copy of the bill of entry. Further notice dated 02.06.2017 was also issued by the Assessing Officer calling upon the petitioner to file their objections. It is stated that the petitioner, accordingly, filed their objections on 13.11.2017. In support of proof of such filing of the objections, a copy of the letter delivery book is placed before this Court. However, the Assessing Officer has not referred to subsequent notices issued on 23.03.2017 and 02.06.2017 and the relevant replies filed by the petitioner on 29.05.2017 and 13.11.2017.

4. Perusal of the impugned order clearly indicates that the Assessing Officer has referred to the objections filed by the petitioner on 15.02.2017 alone and not the subsequent notices issued by her as well as the objections filed by the petitioner against such notices. Therefore, it is evident that the Assessing Officer has chosen to pass the impugned order without reference to the objections already filed by the petitioner on 29.05.2017 and 13.11.2017. Thus, as rightly pointed out by the learned counsel for the petitioner, it is evident that the impugned order is an outcome of non-application of mind, apart from being the one in violation of principles of natural justice.

5. In view of the above, without expressing any view on the merits of the claim made by the respective parties, this Court is inclined to set aside the impugned order and remit the matter back to the Assessing Officer for redoing the assessment once again on the above said issue. Accordingly, this Writ Petition is allowed and the impugned order is set aside. Consequently, the matter is remitted back to the Assessing Officer for redoing the assessment on merits and in accordance with law, after

considering the objections already filed by the petitioner. The Assessing Officer shall provide an opportunity of personal hearing to the petitioner before concluding the assessment. The whole exercise shall be done by the Assessing Officer/respondent within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

mk

To
The State Tax Officer
Alandur Assessment Circle
No.12, Vegagiri Street, Alandur
Chennai-600 016.

+1 CC to Mr.P.Rajkumar, Advocate sr 98684
+1 CC to The Govt. Pleader sr 99608.

W.P.No.13424 of 2018

RSV(CO)
SP(07/01/2020)