IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.12.2019

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.25462 of 2018
& WMP.Nos.29622 & 29625 of 2018

M/s.Akshara Industries Ltd.
Rep. by its Director
Anurag Tibrewala ...Petitioner

--Vs--

The Assistant Commissioner (ST),
Choolai Assessment Circle
2nd Floor, Palaniappa Maligai
10 Greams Road, Chennai-6 ...Respondent

Prayer: Writ Petitions filed under Article 226 of the Constitution of India, to issue a Writ or order of direction or any other Writ in the nature Writ of Certiorari, calling for the records of the respondent in his proceedings TIN No.33411023992/2015-16 dated 24.08.2018 and quash the same as illegal.

For Petitioner : Mr.S.Ramanathan
For Respondent : Mr.M.Hariharan
Additional Government Pleader

O R D E R

The challenge in this writ petition is to an order of assessment dated 24.08.2018, passed in terms of the provisions of the Tamil Nadu Value Added Tax Act, 2006 (in short 'Act') for the period 2015-16.

2. There was an exchange of pre-assessment notice and response by the petitioner pursuant to a visit by the Enforcement officials on 02.11.2016 at the premises of the petitioner. Though various factual particulars are stated to have been sought and furnished by the petitioner, I straight away refer to revised final notice dated 27.02.2018 wherein, after outlining some points of disputes i.e. mismatch of purchase and sales transaction, liability for inter-state sales not covered by Form C and input tax credit (ITC) reversal on local purchases not covered by documents, the Assessing Officers

refers to certain transactions inter se the petitioner and one Tvl.Sumangala Steel Pvt. Ltd., stating that the petitioner has not reported purchases from the said Sumangala Steels in its returns. He calls upon the petitioner to produce the original purchase invoices in respect of the aforesaid transactions.

3. The petitioner has replied to the notice on 02.04.2018 and the annexure to the aforesaid reply contains the details of original documents submitted for verification as follows:

DETAILS OF DOCUMENTS (ORIGINAL) SUBMITTED FOR VERIFICATION

1.Sales invoice of Finished Goods (Sponge Iron) 14 Binded Books

S.No.1 to 4380

2.Stores & Consumables Purchase Invoice (File Original) Value (Rs.)

a.Invoice (VAT not claimed)	4409661.52	2 Files
b.Invoice (VAT claimed)	4781664.40	1 File
c. Invoice (VAT claimed)	3614451.66	1 File
d.Interstate Stores Purchase (4010523.55-38651)	3971872.55	1 File
e. Machinery Purchase	59877.00	1 File
f. Packing & Forwarding (Gmmco Bill dt.28.01.18)	1717.50	
	16839244.63	

for Akshara Industries Limited   Received the above subject

sd/..   to verfication (acknowledged in hand writing)

Authorized Signatory   sd/..

4. Upon a comparison of signatures set out above and the signature at the conclusion of the assessment order, they clearly appears to be of the same person, that is, the Assistant Commissioner CT, Choolai Assessment Circle. Having received the original documents as set out above, the Assessing Officer has evidently not verified the same in so far as he continues to proceed on the basis that the transactions inter se the petitioner and Sumangala Steels relate to purchases by the former from the latter and not the reverse as averred by the petitioner in its reply dated 27.11.2017 to the effect that the transactions with Sumangala Steels relate to sales to them and not from them.

5. Moreover, the Assessing Officer proposes to reverse the entire input tax credit in respect of purchases, though the revises pre-assessment notice calls for detail of transactions only with Sumangala Steels. Thus, enquiry to the extent and in the manner it ought to have been conducted has not been carried

out in the present case and it was incumbent upon the Assessing Officer to have examined the documents supplied by the petitioner as well as the petitioners' submission in reply.

6. In the light of the aforesaid, the impugned assessment is set aside. Let the petitioner appear before the respondent on Thursday, the 2nd of January 2020 without expecting any notice in this regard. After hearing the petitioner, examining the documents that are available in the possession of the Officer as well as any that may be supplied by the petitioner, an order of assesment be passed de novo and in accordance with law within a period of four weeks from date of conclusion of personal hearing. The Assessing Officer is also at liberty to call for further documents if so required.

7. This writ petition is allowed in the above terms. Consequently, connected miscellaneous petitions are closed with no order as to costs.

Sd/-
Assistant Registrar(CS-III)

// True Copy//

Sub Assistant Registrar

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To

The Assistant Commissioner (ST),
Choolai Assessment Circle
2nd Floor, Palaniappa Maligai
10 Greams Road, Chennai-6.

+1cc to Mr.S.Ramanathan, Advocate, SR.No.104671.
+1cc to Government Pleader, SR.No.105018.

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GJ (CO)
CSR(20/12/2019)