BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.07.2019

CORAM

THE HON'BLE DR.JUSTICE ANITA SUMANTH

W.P.(MD)No.3939 of 2014

M/s.Arudra Steel Rolling Mills (P) Ltd., (Defunct),
Rep.by its Director-P.Srinivasalu Reddy,
No.14-A, E.V.R.Road, Puthur, Trichy. ...Petitioner

-Vs-

1.The Assistant Commissioner of Central Excise,
Central Excise I Division,
No.1, Williams Road,
Cantonment, Trichy-620001.

2.The Special Committee,
Under Section 16 D of TNGST Act 1959,
Office of the Commercial Tax Department,
Exhilagam, Chepauk, Chennai-600 005.

3.The Commercial Tax Officer,
Woraiyur Assessment Circle,
Trichy. ...Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, to direct the first respondent herein to return the seized documents during the course of search made by the Excise Department Officials on 27.03.2003 to the petitioner as per the representation made on 20.12.2013.

For Petitioner : Mr.R.Hemalatha

For Respondents : Mr.S.Gurumoorthy

ORDER

The petitioner seeks Mandamus directing the first respondent to return the documents seized during the course of search by the Excise Department on 27.03.2003.

2.On notice, counter has been filed by the first respondent wherein at paragraph No.4 he states as follows:

"4.It is submitted that a search was conducted by the officers of the Central Excise Department in the petitioner's premises on 27.03.2003 and several incriminating documents were seized by the Department during the search operation. After investigation, it was found that the Petitioner has committed serious offences punishable under the provisions of the Central Excise Act and other relevant statutes and a criminal proceedings was initiated as against the Petitioner on the file of the Judicial Magistrate No.I, Trichy in C.C.No.5 of 2009. All the documents seized from the premises of the Petitioner were produced before the learned Magistrate Court No.I, Trichy in the above mentioned case initiated by respondent. It is to be noted that except the documents produced before the learned Magistrate Court, no other document is available with the respondent, and therefore the Petitioner can very well apply for certified copies of the documents from the concerned Criminal Court to submit the same before the Sales Tax Authorities. Therefore, under these circumstances, it is needless to say that the documents seized from the premises of the Petitioner were filed before the concerned Criminal Court for Criminal proceedings and no document as stated in the Affidavit filed along with the Writ Petition, is available with the first respondent."

3.It thus appears that all documents seized from the premises of the petitioner, have, according to the first respondent, been placed before the learned Magistrate. I agree with the respondent that the petitioner may be directed to seek issuance of copies from the Court, before which they have been filed.

4.In the event, any of the seized documents enumerated in the representation of the petitioner dated 20.12.2013, (unnumbered 38 documents) are not in the possession of the Magistrate Court and are still in the possession of the Excise Department, the petitioner may reiterate its requests for the same before him. The counter filed by the first respondent does not confirm that all 38 documents that are enumerated in the petitioner's representation dated 20.12.2013 either have been seized or have been handed over to the Magistrate Court.

5.In such circumstances, if there are any documents forming part of 38 that are still in the possession of the respondents, copies of the same shall be made available to the petitioner, upon necessary charges being paid by the petitioner, within a period of four weeks from today. The petitioner shall approach the respondents in this regard, to obtain clarity of the aforesaid. Time frame of four weeks would run out from the date of representation by the petitioner before the respondents in this regard.

6.This Writ Petition is disposed of, in the above terms. No costs.

Sd/-
Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar

To

1.The Assistant Commissioner of Central Excise,
Central Excise I Division,
No.1, Williams Road,
Cantonment, Trichy-620001.

2.The Special Committee,
Under Section 16 D of TNGST Act 1959,
Office of the Commercial Tax Department,
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Woraiyur Assessment Circle,
Trichy.

+1 CC to M/s.S.KARUNAKAR, Advocate (SR-77556[F] dated 25/07/2019)

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GNS/TM
MS/06.09.2019/3P.5C