IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2020

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.NOS.43512 TO 43514 OF 2006
AND
M.P.NOS.1,1 AND 1 OF 2006

P.M.P.Steels Rolling Mills (Madras) Ltd.
represented by its Director,
P.Muthusamy, 487, Mint Street,
Chennai – 600 003. ... Petitioner in all WPs.

Vs.

The Commercial Tax Officer (FAC),
Park Town II Assessment Circle,
Chennai. ... Respondent in all WPs.

Prayer in W.P.No.43512 of 2006:
Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records on the files of the respondent herein in his TNGST/0400664/2002-03 dated 30.08.2006 and quash the same and direct the respondent to give an opportunity to the petitioner to cross examine the witnesses relied upon by the respondent while passing fresh orders in accordance with law.

Prayer in W.P.No.43513 of 2006:
Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records on the files of the respondent herein in his TNGST/0400664/2001-02 dated 30.08.2006 and quash the same and direct the respondent to give an opportunity to the petitioner to cross examine the witnesses relied upon by the respondent while passing fresh orders in accordance with law.

Prayer in W.P.No.43514 of 2006:
Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records on the files of the respondent herein in his T/0400664/2003-04 dated 30.08.2006 and quash the same and direct the respondent to give an opportunity to the petitioner to cross examine the witnesses relied upon by the respondent while passing fresh orders in accordance with law.

For Petitioner in all WPs : Mr.N.Inbarajan
For Respondents in all WPs : Mr.Hariharan, AGP (T)

COMMON ORDER

These writ petitions have been filed to quash the impugned orders and direct the respondent to give an opportunity to the petitioner to cross examine the witnesses relied upon by the respondent, while passing fresh orders in accordance with law.

2. Though several grounds have been canvassed by the learned counsel for the petitioner in these writ petitions, the only ground which is required to be considered is that the respondent passed the impugned orders based on the inspection of place of business of third parties, from whom the purchases were made by the petitioner, without giving opportunity to cross examine the third parties and also not providing copies of the records, which are the basis for making assessment and hence, the orders impugned herein are arbitrary, illegal and in violation of the principles of natural justice.

3. The learned Additional Government Pleader appearing for the respondent has made his submission supporting the orders impugned herein. He further submitted that the documents secured from some of the dealers have been declared as bill traders and that the request of the petitioner for securing the witnesses for cross-examination is not possible at this length of time.

4. On a consideration of the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side, it is apparent that the respondent passed the impugned orders, without providing opportunity to the petitioner to cross examine the third parties from whom the purchases were made and also not providing copies of the records, which are the basis for making such assessment and hence, the same are arbitrary, illegal and contrary to the principles of natural justice. On this ground alone, the orders passed by the respondent are liable to be set aside.

5. Accordingly, the impugned orders dated 30.08.2006 passed by the respondent relating to the assessment years 2000-01, 2002-03 and 2003-04 are set aside and the matters are remanded back to the respondent for fresh consideration. The respondent is directed to furnish copies of the statements of witnesses, viz. the sellers of the petitioner and also the documents like cancellation of R.C., etc., to the petitioner, within a period of two weeks from the date of receipt of a copy of this order. On receipt of the same, the petitioner shall file their objections along with supporting documents if any, to the

respondent within a period of two weeks there from. Thereafter, the respondent shall consider the same and pass appropriate orders on merits and in accordance with law, after affording due opportunity of personal hearing to the petitioner, within a period of four weeks from the date of receipt of objections.

6. All these writ petitions stand allowed in the above terms. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

The Commercial Tax Officer (FAC),
Park Town II Assessment Circle,
Chennai.

+1cc to Mr.N.Inbarajan, Advocate, S.R.No.23835
+1cc to the Special Government Pleader (T), S.R.No.24020

W.P.Nos.43512 to 43514 of 2006

VBA(CO)
CS/08/07/2020