IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2020

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.15948 of 2020 &
WMP.No.19841 of 2020

Pulkit Metals Private Limited
Represented by its Director
Vinod Garg … Petitioner
R.S.No.438/2, 3A, 3B, 4&5,Eripakkam,Mandagapattu Road,
Palliputhupattu, Villupuram -605 106

Vs

The Assistant Commissioner (ST)(FAC)
Villupuram - II,
Integrated C.T.Building,
Master Plan Complex,
Villupuram District,
Villupuram -605 602. … Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus Calling for the records of the respondent in TIN No.33304702341/2014-15 dated 28.08.2020 and quash the same and further direct the respondent to consider our reply dated 24.01.2017 along with enclosures and further reply received on 13.09.2019.

For Petitioners : Mr.R.Kumar
For Respondents : Ms.G.Dhana Madhiri
Government Advocate

O R D E R

Ms.G.Dhana Madhiri, learned Government Advocate accepts notice for the respondent and is in receipt of instructions to proceed with the matter. By consent of both sides, the matter is thus finally disposed even at the stage of admission.

2. The petitioner challenges an order of assessment dated 28.08.2020 passed in terms of the provisions of the Tamil Nadu Value Added Tax Act, 2006 (in short 'Act') for the period 2014-15. The main ground of challenge is violation of principles of natural justice insofar as admittedly there has been no personal hearing afforded to the petitioner prior to completion of assessment. The Officer notes in the impugned order that two notices have been issued, one dated 01.12.2016 and the second

19.02.2019 and documents have been furnished by the petitioner on 28.02.2019 as well as subsequently in support of its claim of Input Tax Credit (ITC). However, the Officer on the ground that the petitioner has not discharged the entire burden of proof in terms of Section 17 of the Act for the claim of ITC, rejects the claim. The two issues that arise relate to alleged purchase omission amounting to Rs.17,91,902/- and alleged purchase suppression amounting to Rs.2,88,25,346/-.

3. In the light of the admitted position that the petitioner has not been afforded an opportunity of personal hearing prior to completion of assessment, the impugned order of assessment is set aside. The petitioner will appear before the respondent officer on Thursday, the 26th of November, 2020 at 10.30 a.m. without awaiting any further notice along with yet another copy of the documents relied upon by it in regard to its claim of ITC. Any material in relation to third party details obtained from the Departmental website and proposed to be relied upon by the authority shall be made available to the petitioner prior to completion of assessment. After consideration of the same and after hearing the petitioner in person, an order of assessment shall be passed de novo within a period of six (6) weeks thereafter.

4. This Writ Petition is disposed in the aforesaid terms. No costs. Connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To
The Assistant Commissioner (ST)(FAC)
Villupuram - II,
Integrated C.T.Building,
Master Plan Complex,
Villupuram District,
Villupuram -605 602.

+1cc to Mr.R.Kumar, Advocate, sr no.36573
+1cc to Special Government Pleader(Taxes), sr no.36612

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PM(CO)
RMP(11/12/2020)