IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2021

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

Writ Petition No.564 of 2021
and
WMP.Nos.624 & 627 of 2021

M/s.M.S.Steels,
Rep. By its Proprietor - G.Chandrasekaran,
No.9/233-12, Bhavani Main Road,
Anthiyur - 638 501,
Erode District. .. Petitioner

Vs

The State Tax Officer (ST),
Bhavani Assessment Circle,
Bhavani, Erode District. … Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari, to call for the records on the file of the Respondent in his impugned proceedings made in TIN 33772944976/2013-14 dated 04.03.2020 quash the same as illegal and contrary to the scheme of the Act.

For Petitioner : Mr.S.Rajasekar
For Respondent : Mr.ANR.Jayaprathap
Government Advocate

O R D E R

Heard Mr.S.Rajasekar, learned counsel for the petitioner and Mr.ANR.Jayaprathap, learned Government Advocate for the respondent.

2.The challenge in this writ petition is to an order of assessment dated 04.03.2020 passed in terms of the provisions of Tamil Nadu Value Added Tax Act, 2006 (in short 'Act'), on the ground of violation of principles of natural justice. In response to notices issued by the Assessing Authority, the petitioner vide its letter dated 04.12.2019, had sought some time to respond. By notice dated 05.02.2020, further opportunity was granted to appear before the officer, without stipulating any date for appearance. Admittedly, there has been no response to this by the petitioner.

3.Personal opportunity, to be effective, should be offered by way of fixing of hearing on a specified date and time. Since this has not been done in the present case, there is, in my view, a violation of the principles of natural justice.

4.That apart, the issue on merits relates to cross verification of the transactions between the petitioner and its sellers and alleged discrepancies in the details of such transactions. Admittedly, the details of discrepancies have not been provided to the petitioner and no proper cross-verification has been done in this regard. It is incumbent upon both the assessing authorities of the petitioner and the seller to corroborate the details of transactions, reconcile and furnish the details of discrepancies, if any, to the assessees for their response prior to making any adjustment on this account.

5.In a judgment rendered by this Court in a case of JKM Graphics (99 VST 343), this Court had suggested that an appropriate intra-department mechanism be set up for this purpose. It appears that the Department does not have the infrastructure to do the same. A review petition was filed by the department before the learned single Judge, who dismissed the same, recording the position that even in the absence of a specified mechanism, the available infrastructure would be sufficient to sort out the difficulties on this account substantially. Thus the present procedure would be adequate and would suffice, subject to the Assessing authority ensuring that all details of the selling dealers' returns and transactions reflected therein be furnished to the petitioner, its objections received, the petitioner heard and an order of assessment be passed thereafter. Let this exercise be completed in this case within a period of eight (8) weeks from today.

7.This writ petition is disposed as above. Connected Miscellaneous Petitions are also closed. No costs.

Sd/-
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

Vs

To

The State Tax Officer (ST),
Bhavani Assessment Circle,
Bhavani, Erode District.

+1cc to Mr.R.Hemalatha, Advocate, S.R.No. 18272

+1cc to the Special Government Pleader(Taxes), S.R.No. 18175

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SKY(CO)

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