IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.07.2021

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.12097 of 2013
and
M.P.No.1 of 2013

BMP Steels (P) Ltd.,
Rep., by its Director,
Pankaj Agarwal,
291/1, D1 & 297/1 D3,
New Gummidipoondi. .. Petitioner

-vs-

1.The Commercial Tax Officer,
Chengalpattu Enforcement (South),
Greams Road, First Floor,
Room No.30, Chennai-6.

2.The Joint Commissioner (CT),
Enforcement II,
Greams Road, Chennai-6. .. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records of the first respondent relating to statement dated 21.02.2013 and quash the statement dated 21.02.2013.

For Petitioner : Mr.R.Kumar

For Respondents : Mr.V.Veluchamy,
Government Advocate

ORDER

The inspection conducted by the first respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (hereinafter referred to as "the TNVAT Act") is questioned in this writ petition and the report of inspection dated 21.02.2013 is challenged.

2.The order impugned would show that during the course of inspection, the authorities found certain records regarding the business transactions and seized materials for the purpose of scrutiny. Such an inspection report prepared, pursuant to the inspection, cannot be challenged in a writ proceedings in a routine manner. The inspection was conducted by virtue of the powers conferred on the authority under Section 65 of the TNVAT Act. Thus, further proceedings are to be followed for assessing the materials for scrutiny and an opportunity is also to be given to the petitioner to defend their case.

3.At the out set, the procedures as contemplated under the TNVAT Act and Rules are to be followed scrupulously by the authorities and the petitioner is at liberty to defend their case in the manner known to law. However, this Court cannot interfere with the mere report submitted by the authorities during the course of inspection. The impugned report would show that the statement was read over by the deponent and was recorded. However, the petitioner refused to receive the said copy of the inspection report and therefore, the authorities competent send the same through Registered Post with Acknowledgement Due. This being the conduct of the petitioner, this Court cannot interfere with the said inspection report and it is for the petitioner to defend their case by availing the opportunities to be provided by the authorities.

4.The inspection was completed on 21.02.2013 and the writ petition was filed on 22.04.2013. Immediately after the inspection, the petitioner has approached this Court and therefore, the respondents are unable to proceed further due to the pendency of the writ petition.

5.This Court is of the considered opinion that the mere inspection report would not provide a cause for the writ petitioner to move a writ petition. The inspections are conducted for the purpose of verification and to cull out the truth regarding any tax evasion or irregularity or otherwise. Thus, the respondents are bound to proceed in accordance with law. In this view of the matter, the respondents are directed to continue the proceedings pursuant to the inspection conducted by following the procedures contemplated under the TNVAT Act and Rules and by affording opportunity to the writ petitioner.

With the above observations and directions, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Commercial Tax Officer,
Chengalpattu Enforcement (South),
Greams Road, First Floor,
Room No.30, Chennai-6.

2.The Joint Commissioner (CT),
Enforcement II,
Greams Road, Chennai-6.

+1cc to Mr.R.Kumar, Advocate, S.R.No. 33191
+1cc to the Special Government Pleader(Taxes), S.R.No. 34074

W.P.No.12097 of 2013

SR II(CO)
GN(10/08/2021)