IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.16456 & 16457 of 2016
and
W.M.P.Nos.14224 & 14225 of 2016

M/s.Bharat Steels,
represented by its Propreitor,
Mr.Gulraj M.Jain,
No.4, Signanna Naicken Street,
Chennai - 600 001. ...Petitioner in both W.Ps.

Vs.

The Commercial Tax Officer,
Broadway Assessment Circle,
199, Thambu Chetty Street,
Chennai -1.
...Respondent in both W.Ps.

Prayer in W.P.No.16456 of 2016: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari, to call for the impugned proceedings of the respondent in TIN/33440061202/2013-14 and quash the impugned order dated 29.02.2016 as passed based on the defects noticed from Commercial Taxes Department Web site and so contrary to the principles of natural justice and also contrary to judgment of the Hon'ble Supreme court in the case of State of Maharastra Vs. Suresh Trading Company reported in 109 STC 439 and the Hon'ble Madras High court in the case of M/s.Jinsasan Distributors Vs. Commercial Tax Officer (CT) Chintaripet Asst Circle reported in 59 VST 256, in the case of M/s.Althaf Shoes (P) Ltd reported in 50 VST 179, in the case of M/s.Sri Vinayaga Agencies reported in 60 VST 283, in the case of Aassan Global Trade in W.P.No.25996 to 25998 of 2014 and also in the case of M/s.Infiniti Wholesale Limited in W.P.No.9265 of 2013.

Prayer in W.P.No.16457 of 2016: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari, to call for the impugned proceedings of the respondent in TIN/33440061202/2014-15 and quash the impugned order dated 29.02.2016 as passed based on the defects noticed from Commercial Taxes Department Web site and so contrary to the principles of natural justice and also contrary to judgment of the Hon'ble Supreme court in the case of State of

Maharastra Vs. Suresh Trading Company reported in 109 STC 439 and the Hon'ble Madras High court in the case of M/s.Jinsasan Distributors Vs. Commercial Tax Officer (CT) Chintaripet Asst Circle reported in 59 VST 256, in the case of M/s.Althaf Shoes (P) Ltd reported in 50 VST 179, in the case of M/s.Sri Vinayaga Agencies reported in 60 VST 283, in the case of Aassan Global Trade in W.P.No.25996 to 25998 of 2014 and also in the case of M/s.Infiniti Wholesale Limited in W.P.No.9265 of 2013.

For Petitioner : Mr.P.Rajkumar
(in both W.Ps)

For Respondent : Mr.R.Swarnavel
(in both W.Ps) Government Advocate

C O M M O N O R D E R

The petitioner has challenged the impugned orders dated 29.02.2016 passed by the Assessment years 2013-14 and 2014-15. The impugned orders proceeded notice issued under Section 27 of the TNVAT Act, 2006. The dispute in this notice and the consequent the impugned orders on account of cancellation of Registration and the petitioner's vendor who had issued invoice on the strength of which the petitioner availabled input tax credit. The second issues pertains to availing of input tax credit on sales turnover not reported by the petitioner's vendor. The third issue relates to mis-match between annexure 1 who filed by the petitioner and annexure 2 filed by the petitioner's vendor some of the issues canvassed in this writ petition is covered by the decision of the Division Bench of this Court in Assistant Commissioner (CT) Broadway Assessment Circle, Chennai Vs. Bhairav Trading Company [2016] 96 VST 315 (Mad).

2.The learned counsel for the Commercial Tax Department confirms that pursuant to the direction of this Court in JKM Graphics Solutions (P) Ltd Vs.Commercial Tax Officer 99 VST 343 the Government of Tamil Nadu had also issued certain guidelines for verifying the mis-match and that Government. Thereafter, the government had also preferred a Review Application before the learned Single Judge in a batch of cases and in one of the Review Application No.173 of 2018 an order came to be passed on 12.02.2021. The learned Single Judge has dismissed the Review Application filed by the Revenue/Commercial Tax Department. The operative portion of the order which reads as under:

> 4.The learned Special Government Pleader appearing for the petitioners informs this Court that on account of advent of technology and advanced

computerization being done in the Commercial Taxes evolved a scheme, by which, verification will be done at both ends without calling upon the dealer to appear before the officers, that the verification will be done departmentally and that only when the Department is unable to reconcile, the dealers will be put on notice. The learned Special Government Pleader, on instructions, would further submit that if the process, which is now conceived by the Department is implemented, substantial number of cases would stand resolved and finalized.

5.In the light of the above, while holding that no grounds are made out for reviewing the impugned order, this Court directs the petitioners to take earnest steps to resolve the mismatch issues and as far as possible, avoid the dealers being called upon to produce documents by verifying details available in the departmental website and only when it is not possible for the Department to reconcile, then the dealers may be put on notice and in such circumstances, a more conciliatory approach shall be taken if the dealers are called upon to appear.

3.In the light of the above order, the impugned orders are setaside and the case are remitted back for re-examination to pass a fresh order. The respondents are therefore directed to pass appropriate orders, considering the decision of the Court rendered in the above two decisions (cited supra) within a period of three months from the date of receipt of a copy of this order in accordance with law.

4.The writ petitions stand disposed of with the above observations. No costs. Consequently, connected Miscellaneous Petitions are closed.

s/d-
Assistant Registrar(CS-VIII)

True Copy

Sub-Assistant Registrar

To

The Commercial Tax Officer,
Broadway Assessment Circle,
199, Thambu Chetty Street,
Chennai -1.

+1 CC to The Special Government Pleader sr 21781.

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and
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SP(09/07/2021)