IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.08.2021

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. Nos.11450, 11452 & 11453 of 2021
& WMP Nos.12172, 12174 & 12177 of 2021

PMP Steels
Rep. by its Partner Mr.M.Palanivel
S.F. 230 Lakshmi street Srinivasa Nagar
Coimbatore 641015. …Petitioner in the above W.Ps

Vs.

The Assistant Commissioner (ST)
Singanallur North Circle, Coimbatore.
...Respondent in the above W.Ps

Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying to issue Writ of Certiorari calling for the records of the impugned proceedings of the respondent vide DRC-07 in GSTIN 33AAJFP 4384 P1ZL dated 30.12.2020, 05.01.2021 and 06.01.2021 and the proceedings in GSTIN 33AAJFP 4384P1ZL dated 30.12.2020, 05.01.2021 and 06.01.2021 served on 13.02.2021 for the year 2017-2018, 2018-19 and 2019-2020 and quash the same.

For Petitioner : Mr.S.Raveekumar

For Respondent : Mr.TNC.Kaushik
Government Advocate

C O M M O N O R D E R

Heard Mr.S.Raveekumar, learned counsel for the petitioner and Mr.TNC.Kaushik, learned Government Advocate for the respondent.

2. The challenge is to three orders of assessment for the periods 2017-18, 2018-19 and 2019-20 passed in terms of the provisions of the Goods and Services Tax Act, 2017.

3. Mr.Kaushik would fairly state that the challenge to these orders is covered by a view taken by me in W.P.No.10489 of 2021 (order dated 27.04.2021), wherein I have held as follows:

> 2. The challenge is to order of assessment dated 08.01.2021 passed in terms of the Tamil Nadu Goods and

Services Tax Act, 2017 (TNGST Act, 2017). In the summary of notice dated 14.12.2020 the Assessing Officer has referred to notice dated 29.05.2020, wherein the Assessing Authority has noted certain discrepancies in the invoices accompanied by e-way bills.

3. The petitioner has replied to the Officer on 23.12.2020 specifically requiring a copy of the statement relied upon by the respondent. In the show cause notice, the Assessing Authority states that the supplier had admitted in his statement recorded by the Central GST Authorities, stating that they had neither received any inward nor engaged in outward supply. The officer thus proposes to arrive at a conclusion that the transaction was not genuine and the petitioner was engaging in bill trading. In response, the petitioner has specifically sought the statement recorded by the third party dealer reserving his right to cross examine the dealer as well as to file objections to the same. The impugned order has come to be passed without hearing the petitioner and admittedly, without supplying the statement relied upon by the Officer.

4. The conclusion in the assessment order, in fact, mentions the statement recorded by the third party dealer and in the light of the fact that this statement forms the basis of assessment, the petitioner ought to have been granted opportunity to peruse the statement and put forth its objections to the same. This has not been done, which, in my view, constitutes principles of violation of natural justice.

5. The impugned order is thus set aside. Let the statement and other particulars relied upon by the Officer in the impugned order of assessment be supplied to the petitioner within a period of three (3) weeks from today. Thereafter, the petitioner shall be afforded an opportunity of hearing to put forth its submission and also file objections. Upon consideration thereof, a speaking order shall be passed by the Officer within a period of six (6) weeks from date of first hearing.

4. In light of identity of facts and legal position qua the present case and the matter in W.P.No.10489 of 2021, the same order is taken to be passed in these matters as well.

5. The impugned order is thus set aside. Let the statement and other particulars relied upon by the Officer in

the impugned orders of assessment be supplied to the petitioner within a period of three (3) weeks from today. Thereafter, the petitioner shall be afforded an opportunity of hearing to put forth its submission and also file objections. Upon consideration thereof, speaking orders shall be passed by the Officer within a period of six (6) weeks from date of first hearing.

6. These Writ Petitions are disposed as above. No costs. Connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

The Assistant Commissioner (ST),
Singanallur North Circle, Coimbatore.

Copy To

The Section Officer,
ER Section, High Court, Madras.
(To return the impugned Assessment Order/Statement to the Petitioner)

+3cc to Mr.S.Ravee Kumar, Advocate, S.R.No.38662,38661,38660
+1cc to the Special Government Pleader(Taxes), S.R.No.38957

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GPL(CO)
SB(23/08/2021)