IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2021

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.10489 of 2021
& WMP No.11086 of 2021

1 Sri Muniappa Steels
Rep by its Proprietor M.Palanivel S.F.
230/12 Masaniammankovil Street Srinivasa
Nagar Coimbatore 641 015

…Petitioner

Vs.

1 The Assistant Commissioner
(ST) Singanallur North Circle Coimbatore

...Respondents

Prayer: Writ Petition 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 33AIQPM4785N1ZE dated 8.1.2021 and the adjudication proceedings in GSTIN 33AIQPM4785N1ZE/ 2019-20 dated 8.1.2021 served on 13.2.2021 for the year 2019-20 and quash the same.

For Petitioner : Mr.S.Raveekumar

For Respondents : Mr.ANR.Jayaprathap
Government Advocate

O R D E R

Mr.ANR.Jayaprathap, learned Government Advocate accepts notice for the respondent and is armed with instructions to proceed with the matter finally, even at the stage of admission. Hence, by consent of both sides, this Writ Petition is disposed finally even at this stage. This is also for the reason that the sole ground that has been argued before me is violation of principles of natural justice.

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.

6. This Writ Petition is disposed as above. No costs. Connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

sl

To

1.The Assistant Commissioner

(ST) Singanallur North Circle, Coimbatore.

+1cc to Mr.S.Raveekumar, Advocate, S.R.No.25635

+1cc to Spl Government Pleader(Taxes) SR.26042

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AJB(CO)
CB(29/06/2021)