IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.07.2021

CORAM

THE HON'BLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No.5173 of 2015 and
M.P.Nos.1 & 2 of 2015

M/s.Vijay Shree Metals,
Rep.by its Proprietor V.Mangilal,
No.26/17 A, Mooker Nallamuthu Street,
Parrys, Chennai - 01. ...Petitioner

Vs

The Assistant Commissioner (CT),
Broadway Assessment Circle,
Chennai - 01. ... Respondent

PRAYER :

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the proceedings of the respondent in Rc.No/221/2014/AC dated 12.01.2015, quash the same.

For Petitioner : Mr.Adithya Reddy

For Respondents : Mr.V.Veluchamy
Government Advocate

O R D E R

The writ on hand is filed challenging the impugned notice dated 12.01.2015.

2. The petitioner is a registered dealer on the file of the respondent and he issued a notice on 11.12.2014 for the assessment years 2014 - 15 calling for the purchase and sales bills from the date of registration, bank statement and proof of movement of goods alleging defects in the ITC Claim. The petitioner sought for 15 days time to produce all the documents, as he was out of station. On 26.12.2014, the respondent issued notice proposing to reverse the ITC claiming the petitioner effected purchases from registration canceled dealers and to cancel the registration certificate. Further, the petitioner

submitted its objections on 07.01.2015 contending that the selling dealers were active and they have filed their returns disclosing the transactions. The petitioner also contended that based on retrospective cancellation, ITC cannot be reversed. The petitioner appeared on 07.01.2015 and produced purchase bills, purchase register, cheque paid details and banks statements which are sufficient to discharge the burden under Section 17 and Rule 10 of the TNVAT Act. Even though the respondent passed an order, cancelling the registration certificate. Hence the petitioner constrained to move the present writ petition.

3. It is not in dispute that against the impugned notice the statute contemplates the revision, to be filed under Section 54 of the Act. Admittedly, the petitioner has not filed any such revision and has chosen to file the present writ petition exhausting the statutory remedy contemplated, which is of paramount importance. In view of the fact that the High Court cannot adjudicate the disputed facts with reference to the documents and evidences under Article 226 of the Constitution of India, the writ petitioner has to exhaust the revisional remedy provided under the Statute for adjudication of facts. The Revisional Authority is the fact finding authority, therefore, conduct an enquiry with reference to the original records.

4. This being the factum, the petitioner has to exhaust the remedy provided under the statute by filing the Revision Petition under Section 54 of the Act. The petitioner is at liberty to do so and in the event of filing any such revision, the Authority Competent is empowered to consider the same on merits and pass orders as expeditiously as possible, in accordance with law by affording opportunity to the writ petitioner.

5. With these observations, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

Pns

To

The Assistant Commissioner (CT),
Broadway Assessment Circle,
Chennai - 01.

+1cc to Mr.Adithya Reddy, Advocate, S.R.No. 33462
+1cc to the Government Pleader, S.R.No.34079

W.P.No.5173 of 2015
and
M.P.Nos.1 & 2 of 2015

GPL(CO)
CT/17/08/2021