



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.Nos.15650, 15658 & 15661 of 2021
and

W.M.P.Nos.16551, 16555, 16560,
16561, 16563 & 16564 of 2021

M/s.Ogun Steel Rolling Mills Pvt. Ltd.,
Rep., by its Chairman Managing Director,
Shri M.Paramasivam,
T.S.Nos.27/1 & 27/2,
Ward C, Block No.16,
Municipal Corporation Limit,
Angeripalayam Road,
Tirupur-641 603.

.. Petitioner in all W.Ps.

-vs-

State Tax Officer,
Central Intelligence Wing I,
Coimbatore.

.. Respondent in all W.Ps.

Prayer in W.P.No.15650 of 2021 :- Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus quashing the impugned order bearing No. GSTIN 33AABCO1958P1Z2/2017-18 dated 15.02.2021 along with the communication bearing Pdl. No.1/2021 (33AABCO1958P1Z2) dated 05.05.2021 passed by the respondent, as the said order is in violation of the principles of natural justice and also in violation of the provisions of CGST Act and Articles 14 and 19 (1)(g) of the Constitution.

Prayer in W.P.No.15658 of 2021 :- Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus quashing the impugned order bearing No. GSTIN 33AABCO1958P1Z2/2018-19 dated 15.02.2021 along with the communication bearing Pdl. No.1/2021 (33AABCO1958P1Z2) dated 05.05.2021 passed by the respondent, as the said order is in violation of the principles of natural justice and also in violation of Section 16(4) of the CGST Act and Articles 14 and 19(1)(g) of the Constitution.

Prayer in W.P.No.15661 of 2021 :- Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of



Certiorarified Mandamus quashing the impugned order bearing No. GSTIN 33AABCO1958P1Z2/2019-20 dated 15.02.2021 along with the communication bearing Pdl. No.1/2021 (33AABCO1958P1Z2) dated 05.05.2021 passed by the respondent, as the said order is in violation of the principles of natural justice and also in violation of Sections 15 and 75(7) of the CGST Act and Articles 14 and 19(1)(g) of the Constitution.

For Petitioner : Mr.G.Natarajan
(In all W.Ps.)

For Respondent : Mr.T.N.C.Kaushi,
(In all W.Ps.) Government Advocate (Taxes)

COMMON ORDER

The impugned orders dated 15.02.2021, passed under Section 73(4) and Section 74(1) of the Tamil Nadu Goods and Service Tax Act, 2017 (hereinafter referred to as "the TNGST Act") are sought to be quashed in the present writ petitions.

2.The petitioner is a manufacturer of TMT Rods, having their manufacturing premises at No.450, Lakshminaickenpalayam, Selakarachal Village, Coimbatore. From the year 2014, the petitioner was having severe financial difficulties due to sluggishness in the demand for iron and steel and could not made their repayment obligations to their bankers, State Bank of India.

3.The learned counsel for the petitioner states that the officers of the Intelligence Wing of State GST visited the factory premises on 10.09.2020 and at that time, M/s.Hi-Life Iron Metals India Pvt. Ltd., was operating the unit and a statement was recorded from Shri.N.Soundhirarajan, Accountant of M/s.Hi-Life Iron Metals India Pvt. Ltd., who informed the officers that they have purchased the manufacturing unit of the petitioner and carrying out their manufacturing operations. Summons dated 16.09.2020 was issued by the respondent on the petitioner directing to submit various documents.

4.The learned counsel for the petitioner reiterated that the petitioner was all along cooperating with the respondent and produced all the documents. However, show cause notices were issued for three assessment years on 19.12.2020. The petitioner requested for grant of time to file reply. Subsequently, the petitioner filed their detailed replies on 04.02.2021. Considering the objections and based on the materials available on record, the competent authority passed the impugned final orders in proceedings dated 15.02.2021. The petitioner has



subsequently filed some rectification petitions. However, the present writ petitions are filed raising certain factual grounds as well as legal grounds with reference to the provisions of the TNGST Act.

WEB COPY

5. Perusal of the assessment orders impugned dated 15.02.2021 states that appeal against the order, if any, may be filed before the Deputy Commissioner (ST), GST Appeal, Coimbatore within a period of three months from the date of receipt of the order. The petitioner, instead of preferring an appeal before the competent appellate authority, has chosen to file these writ petitions claiming that the authorities have committed certain irregularity in appreciating the documents and objections submitted by the petitioner.

6. This Court is of the considered opinion that when an appellate remedy is contemplated under the provisions of the TNGST Act, more specifically under Section 107, the petitioner has to exhaust the appellate remedy before approaching the court of law. High Court cannot adjudicate the disputed issues between the parties, which is to be done by the original authority as well as by the appellate authority with reference to the documents and evidences. The appellate authority is the final fact finding authority. Thus, adjudication of facts by the appellate authority would be of greater assistance to the High Court for the purpose of exercise of the power of judicial review under Article 226 of the Constitution of India. High Court cannot dispense with the appellate remedy in a casual and mechanical manner. An aggrieved person need not be deprived of valuable right of appellate remedy for effective adjudication of facts and circumstances with reference documents.

7. Exhausting the appellate remedy is the rule. Dispensing with the appellate remedy is an exception. Power of discretion is to be exercised discretely only if there is an imminent urgency or damage, if any, caused or there is any threat, which cannot be compensated then alone, the extraordinary power may be invoked for the purpose of granting relief by dispensing with the appellate remedy.

8. Power of judicial review of the High Court under Article 226 of the Constitution of India is to scrutinize the processes and the procedures adopted by the competent authorities for arriving a particular decision in accordance with law, but not the decision itself. Thus, the High Court cannot entertain an adjudicative process regarding the mixed question of fact and law with reference to the documents and evidences in original. High Court cannot resolve the disputed issues between the parties only based on the affidavits filed in the writ petitions. There is a possibility of omissions and commissions.



Thus, adjudication before the appellate authority with reference to such disputed findings of the original authority would be of greater importance.

9. In view of the facts and circumstances, the petitioner is at liberty to prefer an appeal in a prescribed format and by complying with the Act and Rules and in the event of filing any such appeal, the appellate authority competent shall dispose of the same on merits and in accordance with law as expeditiously as possible. The petitioner is entitled to raise both the factual grounds as well as the legal grounds including the grounds of jurisdiction or principles of natural justice.

With the above observations, these writ petitions stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

abr

To

The State Tax Officer,
Central Intelligence Wing I,
Coimbatore.

+1cc to the Government Pleader, (Taxes) S.R.No.36585 & 37425

W.P.Nos.15650, 15658 & 15661 of 2021

SPD(CO)
CT(24/08/2021)