IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2021

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.26250 & 26252 of 2021
and
W.M.P.Nos.27700 & 27701 of 2021

(Through Video Conferencing)

M/s.Prime Alloys,
Represented by its Managing Partner,
Mohammed Mushthafa,
3/158, Kannur Village,
Avinashi Taluk,
Tiruppur District – 641 655. ... Petitioner in both W.Ps

Vs

1.The State Tax Officer (Inspection),
Inspection Unit-IV,
Dr.Balasundaram Road,
Commercial Taxes Complex,
Coimbatore – 641 018.

2.The Joint Commissioner (ST) Intelligence,
Dr.Balasundaram Road,
Commercial Taxes Complex,
Coimbatore – 641 018.

3.The Principle Commissioner of GST and Central Excise,
Headquarters Preventive Unit,
Coimbatore – 641 018.

4.The Assistant Commissioner (ST),
Avinashi Assessment Circle, Avinashi. ... Respondents in both W.Ps

Prayer in W.P.No.26250 of 2021: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the impugned proceedings of the respondent in GSTIN: 33AASFP9187HIZI/2017-2018 dated 03.09.2021 and quash the same.

Prayer in W.P.No.26252 of 2021: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the impugned proceedings of the respondent in GSTIN: 33AASFP9187HIZI/2018-2019 dated 03.09.2021 (Wrongly dated as 31.09.2021) and quash the same.

For Petitioner (In both W.Ps)	:	Mr.S.Raveekumar
For Respondents (In both W.Ps)	:	Ms.Amirta Poonkodi Dinakaran Government Advocate

COMMON ORDER

Ms.Amirta Poonkodi Dinakaran, learned Government Advocate takes notice on behalf of the respondents.

2. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents.

3. These Writ Petitions are disposed at the time of admission considering the fact that the impugned orders are passed without granting an opportunity of personal hearing as is contemplated under Section 75(4) of the Tamil Nadu Goods and Services Tax Act, 2017. Sub-Clause 4 to Section 75 of the Act reads as under:-

> "Section 75.General Provisions relating to determination of tax:-
>
> (4) An opportunity of hearing shall be granted where a request is received in writing from the person chargeable with tax or penalty, or where any adverse decision is contemplated against such person."

4. The impugned orders precedes a Show Cause Notices dated 30.07.2021. As per the notices, the petitioner was to respond on or before 06.08.2021 and also appear for a personal hearing. The petitioner appears to have sent a reply/representation on 16.08.2021.

5. Though specifically the petitioner has not requested for a personal hearing in the aforesaid reply/representation, the respondents have proceeded to pass the impugned orders by confirming the demand proposed in the notice. As adverse orders would have been passed against the petitioner, it was incumbent on the part of the respondents to issue a notice of personal hearing to the petitioner. Though in this case, admittedly the petitioner had filed the reply belatedly on 16.08.2021 having considered the reply and having decided to pass an adverse order, it was incumbent on the part of the respondents to call upon the petitioner for a personal hearing.

6. In view of the above, the impugned orders stand quashed and these cases are remitted back to the respondents to pass a speaking order after giving an opportunity of hearing to the petitioner on the reply/representation made by the petitioner on 16.08.2021.

7. It is made clear that the orders to be passed by the respondents shall be after furnishing copies of the relied upon documents in the Show Cause Notices.

8. If desired, the respondents are also at liberty to issue suitable corrigendum to the above Show Cause Notice to the petitioner preferably within a period of fifteen days from the date of receipt of a copy of this order.

9. If such a corrigendum is issued to the petitioner, the petitioner shall also file a reply within a period of thirty days thereafter. The respondents shall preferably thereafter pass a fresh speaking order, in accordance with law, within a period of sixty days. It is made clear that the deadlines for passing a final speaking order is only intended to speed up the proceedings and shall not be construed to lapse the period of limitation for passing such order.

10. The petitioner is directed to appear before the respondents for a first hearing on 01.03.2022.

11. These Writ Petitions stand disposed of with the above observations. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

arb

To

1.The State Tax Officer (Inspection),
Inspection Unit-IV,Dr.Balasundaram Road,
Commercial Taxes Complex, Coimbatore - 641 018.

2.The Joint Commissioner (ST) Intelligence,
Dr.Balasundaram Road,
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Headquarters Preventive Unit,Coimbatore - 641 018.

4.The Assistant Commissioner (ST),
Avinashi Assessment Circle, Avinashi.

+1 cc to Spl.Government Pleader(Taxes)Sr.NO.66339

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KV(CO)
A.SK(27.12.2021)