BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 23.02.2021
CORAM
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
W.P(MD)No.6455 of 2019

M/s.Sabari TMT King Pvt. Ltd.,
(Formerly Saga Steels Pvt. Ltd)
Rep. by its Manager,
Mr.R.Elango ... Petitioner

Vs.

1.The Joint Commissioner of Central Excise (GST),
GST Bhavan, No.4, Lal Bahadur Shastri Marg,
Bibikulam, Madurai - 625 002.

2.The Assistant Commissioner (GST) (AE),
GST Bhavan, No.4, Lal Bahadur Shastri Marg,
Bibikulam, Madurai - 625 002.

3.Deputy Commissioner of Central Excise (GST),
No.5, SI Complex, Race Course Road,
Dindigul - 624 005.

4.The Superintendent of Central Excise (GST),
Theni District. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 1st and 2nd respondents/nodal officers to consider the representation dated 04.09.2018 thereby rectifying the error in PAN No. in the registration certificate as AALCS7695HXM001 instead of ALLCS7695MXM001 and enabling the petitioner for transfer of a sum of Rs.1,17,96,334 (One Crore Seventeen Lakhs Ninety Six Thousand Three Hundred and Thirty Four) from Saga Steels Ltd., to the petitioner's account.
(Prayer amended vide Court order dated 08.10.2020 in W.M.P.(MD)No.5815 of 2019 in W.P.(MD)No.6455 of 2019 by AQJ)

For Petitioner : Dr.A.Thiyagarajan, Senior Counsel,
For Mr.S.Karunakar.

For Respondents : Mrs.S.Ragavendre,
Standing counsel.

ORDER

Heard the learned senior counsel for the writ petitioner and the learned standing counsel for the respondents.

2.The petitioner has asked for a larger prayer but the learned senior counsel states that he would confine and limit the same to seeking rectification of the error in the petitioner's registration certificate.

3.The petitioner is an assessee registered with the first respondent. The petitioner is also a dealer registered with the Joint Commissioner of Central Excise (GST), Madurai. The petitioner namely., M/s.Sabari TMT King Private Limited took over Saga Steels Private Limited. The petitioner thereafter came to know that in the registration certificate of Saga Steels Private Limited, there is an error. The registration certificate of Sage Steels Private Limited reads as AALCS7695MXM001. It is pointed out that it should actually read as AALCS7695HXM001. In this regard, the petitioner submitted a representation as early as on 10.07.2015. Since no action was taken, the present writ petition came to be filed.

4.The respondents have filed a counter affidavit. It is mentioned therein that the registration was issued based on incorrect PAN given by the applicant. The error was also not sought to be rectified immediately. They also would further claim that the stocks lying in the petitioner's factory will have to be first verified. This counter was filed way back in April 2019. We are now in February 2021. The stock verification and other formalities must have been completed long time back. In any event, the learned senior counsel states that it is for the respondents to carryout their administrative formality as they deem it and all that he wants now is only correction in the registration certificate.

5.It is true that the authorities have not been approached immediately. It is also true that this writ petition has not been filed immediately after it became clear that the representation was not being considered.

6.Be that as it may, my attention is drawn to the rules issued by the respondents in this regard. Clause 5,11 of the Procedure for Central Excise Registration and Grant of Certificate, which reads as follows:-

“***5,11 Procedure for Amendment of the information***

(i) The new Form of Application shall be used for carrying out Amendments to the information provided earlier by the assessee for obtaining Registration. Suitable entries will be made in the database upon receipt of such amended information.

(ii) Change in information in respect of the name and address of the Registrant would require a change in the details entered on the Registration Certificate itself. Hence, in such situation a fresh Registration

Certificate bearing the earlier allotted 15 digit PAN based Registration Number will be issued to the assessee after surrender of the earlier issued Registration Certificate. The procedure followed would be the same as in place for issue of fresh Registration Certificate except that no verification is necessary in case there is no change in address or premise."

7.In the counter affidavit also the respondents do not contend that they cannot rectify the mistake. When the power to rectify the mistake is available, as and when the error is pointed out, the rectification ought to be done. I am satisfied that the registration certificate pertaining to Saga Steels Private Limited is containing an error. Of course, the petitioner is responsible for the error. But that is not a ground to deny relief sought for by them. Since M/s.Sabari TMT King Private Limited/the writ petitioner herein has taken over Saga Steels Private Limited, M/s.Sabari TMT King Private Limited is very much having *locus standi* to maintain the writ petition. Therefore, the second respondent, who is said to be the nodal officer is directed to rectify the petition mentioned error and issue a revised registration certificate for Saga Steels Private Limited. This exercise shall be carried out within a period of six weeks from the date of receipt of a copy of this order. The writ petition is allowed to this extent. No costs.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1.The Joint Commissioner of Central Excise (GST),
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Bibikulam, Madurai - 625 002.

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Dindigul - 624 005.

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Theni District.

+1 CC to M/s.S.KARUNAKAR, Advocate (SR-6801[F] dated 24/02/2021)

W.P(MD)No.6455 of 2019
23.02.2021

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