IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.04.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

WRIT PETITION NOS.8251 & 8254 OF 2022
AND
W.M.P.NOS.8241 & 8242 OF 2022

M/s.Rinku Steel Industries
Rep.by its Proprietor Mavaram
No.44/55, Shop No.4, Ground Floor
Mugappair Road, Padi, Chennai 600 050.
... Petitioner in both W.Ps.

-Vs-

The State Tax Officer
Padi Assessment Circle
Room No.426, Integrated Buildings
for Commercial Tax, Nandanam
Chennai 600 035.
... Respondent in both W.Ps

Prayer in W.P.No.8251 of 2022 : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records on the file of the respondent in TIN.33950906422 / 2014 - 15 dated 28.12.2021 and quash the same as illegal contrary to the provisions of the Act and against the principles of natural justice and fairplay and direct the respondent to give reasons for disallowing the claim and levying tax and penalty thereon and provide reasonable opportunity.

Prayer in W.P.No.8254 of 2022 : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records on the file of the respondent in TIN.33950906422 / 2015-16 dated 28.12.2021 and quash the same as illegal contrary to the provisions of the Act and against the principles of natural justice and fairplay and direct the respondent to give reasons for disallowing the claim and levying tax and penalty thereon and provide reasonable opportunity.

In both W.Ps.

For Petitioner : Mr.Prithvi Chopda
for Mr.T.Pramod Kumar Chopda

For Respondent : Mr.V.Prashanth Kiran
Government Advocate

COMMON ORDER

The prayer sought for herein is for Writ of Certiorarified Mandamus to call for the records on the file of the respondent in TIN.33950906422 / 2014 - 15 and 2015-16 respectively dated 28.12.2021 and quash the same as illegal contrary to the provisions of the Act and against the principles of natural justice and fairplay and direct the respondent to give reasons for disallowing the claim and levying tax and penalty thereon and provide reasonable opportunity.

2. The petitioner is a dealer under the Tamil Nadu Value Added Tax Act, 2006 (In short 'the VAT Act'). For the Assessment Years 2014-15 and 2015-16, though the deemed assessment was over under Section 22(2) of the Act, subsequently it was reopened and notices were given thrice ie., on 05.08.2021, 20.10.2021 and 22.11.2021. In response to the notice dated 05.08.2021, the petitioner only sent a letter not giving any reply to the proposal as per the notice. Subsequently, when the second and third notices were served, having receipt of the same, the petitioner has not responded. Therefore, the Revenue proceeded to confirm the proposal. By thus, the impugned orders of assessment dated 28.12.2021 have been passed and that also was served on the petitioner on 06.01.2022. Despite these factors, now challenging the order dated 28.12.2021, the present writ petitions have been filed.

3. Mr.Prithvi Chopda, learned counsel for the petitioner would submit that, insofar as 05.08.2021 notice is concerned, a letter has been given by the petitioner in person to the assessing officer seeking certain particulars, but thereafter no such particulars had been given. Insofar as the second and third notices are concerned, those notices also have not been served or assuming that the same have been served, during that period the petitioner and his family members were affected by COVID-19 and thus no reply could be given. Insofar as the assessment orders dated 28.12.2021, which are impugned herein is concerned, that has also not been served on the petitioner and that is the reason why there is a delay of 4 months in filing these writ petitions challenging the impugned assessment orders.

Therefore, the learned counsel for the petitioner, on the ground of violation of principles of natural justice, is challenging the impugned orders and therefore he seeks the indulgence of this Court.

4. Heard Mr.Prashanth Kiran, learned Government Advocate appearing for the respondents, who on instructions would submit that, three times notices were given and every time, having receipt of the notices, no reply was given. Even in respect of the notice dated 05.08.2021, no reply has been given and only a letter has been sent by the petitioner and even that letter was not received by the Revenue, though it is claimed by the learned counsel for the petitioner, that the letter was given or handed over in person.

5. Insofar as the plea that, even the assessment order was not served on the petitioner is concerned, that has been served on the petitioner on 06.01.2022 and also the notice dated 20.10.2021 ie., the second notice was also served on 23.10.2021. In support of the serving of the notice and the impugned orders, postal acknowledgement also has been produced by the learned counsel for the Revenue.

6. Having considered all those aspects, I am of the view that this is not the case where there is violation of principles of natural justice. In this case, three notices were given and despite the same, the petitioner has not chosen to give any reply. Therefore the Revenue, having no other option, passed the assessment orders based on the available records and that is how the impugned orders were passed.

7. When that being the position, if at all there is any grievance against the impugned orders on the merits of the case, that can be agitated before the appellate authority by filing an appeal. For the aforesaid reasons, this Court is not inclined to entertain this writ petition and it is liable to be rejected, hence it is dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed. Registry is directed to return the original impugned orders after retaining a photocopy of the same and after obtaining due acknowledgement from the learned counsel on record.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

KST

To

The State Tax Officer
Padi Assessment Circle
Room No.426, Integrated Buildings
for Commercial Tax, Nandanam
Chennai 600 035.

+2ccs to Mr.T.Pramod Kumar Chopda, Advocate, S.R.Nos.24004, 24005

W.P.Nos.8251 & 8254 of 2022

SSI(CO)
RLP(19/05/2022)