IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

WRIT PETITION NOS.10662, 10667 AND 10669 OF 2022
AND
W.M.P.NOS.10300, 10301, 10302, 10303, 10305 & 10306 OF 2022

M/s.Infinity Metal Private Limited
Rep.by its Director – Syed Mahammad Vali
No.3, GNT Road, Gummidipoondi 601 201
Thiruvallur District.

... Petitioner in all W.Ps.

-Vs-

The Assistant Commissioner (ST)
Gummidipoondi Assessment Circle
Room No.112, 1st Floor, Integrated
Commercial Taxes Building,
Wall Tax Road, Chennai 600 003.

... Respondent in all W.Ps.

Prayer in W.P.No.10662 / 2022 : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the records on the file of the respondent in its proceedings made in TIN/33081702931/2008-09 dated 16.07.2021 quash the same which is contrary to the provisions of Section 19(10)(a) of TNVAT Act, 2006 and Rule 10 (2) of TNVAT Rules, 2007.

Prayer in W.P.No.10667 / 2022 : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the records on the file of the respondent in its proceedings made in TIN/33081702931/2009-10 dated 16.07.2021 quash the same which is contrary to the provisions of Section 19(10)(a) of TNVAT Act, 2006 and Rule 10 (2) of TNVAT Rules, 2007.

Prayer in W.P.No.10669 / 2022 : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the records on the file of the respondent in its proceedings made in TIN/33081702931/2010-11 dated 16.07.2021 quash the same which is contrary to the provisions of Section 19(10)(a) of TNVAT Act, 2006 and Rule 10 (2) of TNVAT Rules, 2007.

In all W.Ps.

For Petitioner : Mr.S.Rajasekar

For Respondent : Mr.C.Harsha Raj
Additional Government Pleader

COMMON ORDER

Since the issue raised in all these writ petitions is common, with the consent of the learned counsel on either side, these writ petitions are taken up together, heard and disposed of by this common order.

2. The petitioner is a dealer under the erstwhile TNVAT Act (In short 'the Act'). In respect of Assessment Years 2008-09 and 2009-10 and 2010-11, a surprise inspection was conducted, pursuant to which the assessment orders were passed, which were under challenge in writ petitions and thereafter in writ appeal. Ultimately, the matter was remanded back to the Revenue for reconsideration. In the reconsideration process, according to the Revenue, though notice was given, reply was not filed by the petitioner dealer. Therefore, orders of assessment dated 16.07.2021 were passed. Challenging the same, the present writ petitions have been filed.

3. Mr.S.Rajasekar, learned counsel for the petitioner submits that, in respect of the same assessee, on the same set of facts, for the Assessment Years 2006-07 and 2007-08 writ petitions were filed in W.P.Nos.9612 and 9616 of 2022 challenging the similar orders of assessment, where I had an occasion to consider the cases and passed the order on 21.04.2022, where the following orders were passed.

> “8. I have considered the submissions made by the learned counsel appearing for both sides and have perused the materials placed on record.
>
> 9. That insofar as the production of documents are concerned, no doubt they are old documents pertaining to the assessment years 2006-07 and 2007-08. Therefore, a reasonable time was sought for by the petitioner ie., one month, which was also given by the Revenue. However, during the second and third wave of

COVID-19 pandemic period, the petitioner seems to have not culled out or retrieved those old documents, which are nearly about 15 years old. Therefore, only after passing of the impugned orders, the petitioner now, through the learned counsel for the petitioner, submits that, the relevant records and documents now have been retrieved, which are in possession of the petitioner and the same would be produced before the Revenue.

10. If that being so, the purpose of remitting back the matter to the Revenue by the earlier orders of this Court to give such an opportunity to the petitioner to produce such documents so that the plea raised by the petitioner whether is substantiated or not can be verified. Therefore, in order to fulfill the obligation on the part of the Revenue, as per the earlier remand order made by this Court in the earlier round of litigation, this Court feels that the impugned orders can be set aside and the matters can be once again remitted back to the Revenue for reconsideration for the only purpose of production of available records within the time frame.

11. In that view of the matter, this Court is inclined to dispose of these writ petitions with the following order.

- That the impugned orders dated 16.07.2021 are set aside and the matters are remitted back to the respondents for reconsideration.

- During the reconsideration process, two weeks time fixing a date for personal hearing can be given or issued by a specific notice to be served on the petitioner calling for the petitioner to produce all relevant documents.

- On that date to be fixed by the Revenue, the petitioner dealer shall appear and produce all those documents, and considering the same, final orders of assessment can be passed thereafter.

- It is made clear that, the legal position with regard to the requirement of transport documents prior to the year 2016 as per the law declared by this Court can be taken into account, and it shall be borne in mind while making the reassessment process as directed above,

12. With the above directions, these writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed."

4. Relying upon the said decision, the learned counsel for the petitioner seeks the indulgence of this Court to extend the same benefit to the petitioner for the assessment years which are covered in these writ petitions also.

5. Heard Mr.C.Harsha Raj, learned Additional Government Pleader appearing for the Revenue, who would submit that, in view of the earlier order passed on 21.04.2022, only for giving one more opportunity, similar order can be passed in these writ petitions also.

6. Accordingly, relying upon the aforesaid order passed in W.P.Nos.9612 & 9616 of 2022 dated 21.04.2022, this Court is inclined to dispose of these writ petitions with the following order.

- That the impugned orders dated 16.07.2021 are set aside and the matters are remitted back to the respondents for reconsideration.
- During the reconsideration process, two weeks time fixing a date for personal hearing can be given or issued by a specific notice to be served on the petitioner calling for the petitioner to produce all relevant documents.
- On that date to be fixed by the Revenue, the petitioner dealer shall appear and produce all those documents, and considering the same, final orders of assessment can be passed thereafter.
- It is made clear that, the legal position with regard to the requirement of transport documents prior to the year 2016 as per the law declared by this Court can be taken into account, and it shall be borne in mind while making the reassessment process as directed above.

7. With the above directions, these writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

KST

To

The Assistant Commissioner (ST)
Gummidipoondi Assessment Circle
Room No.112, 1st Floor, Integrated
Commercial Taxes Building,
Wall Tax Road, Chennai 600 003.

+1cc to M/s.R.Hemalatha, Advocate, S.R.No.29804

+1cc to the Special Government Pleader(Taxes), S.R.No.30549

W.P.Nos.10662, 10667
and 10669 of 2022

RSV(CO)
RLP(25/05/2022)