BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :18.11.2022

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.(MD).No.25249 of 2022
and
W.M.P.(MD).Nos.19337 & 19339 of 2022

M/s.Baskar Cements & Products,
Rep.by its Managing Partner
S.Vijayabaskar,
No.9/454-4, Kumaran Nagar,
C.A.K.Road, Venus School Back Side,
Karur-639 001. ... Petitioner

Vs.

The Assistant Commissioner (ST),
Karur-2 Assessment Circle,
Karur District. ... Respondent

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for the records on the file of the Respondent in its impugned proceedings made in Form GST DRC-07-GSTIN.33AAMFB1193RIZZ/2021-22 dated 07.10.2022.

For Petitioner :Mr.S.Rajasekar
For Respondents :Mr.M.Prakash
Additional Government Pleader

ORDER

This writ petition is filed challenging the impugned order, dated 07.10.2022, on the limited ground that the Assessing Officer after recording that the petitioner has responded to the show cause notice, has stated that the same is not acceptable, in view of the fact that though the inspection was conducted, the dealer has not put forth the reason/objection before the Inspecting Officer and thereafter, the objection cannot be considered. The relevant portion of the impugned order reads as follows:

> *Finding on the reply:-*
>
> *Reply of the dealers regarding defect No.3 has been verified carefully. The dealers' have stated that they have incurred invisible loss about 2 to 3% of raw materials while manufacturing of end product, and that the stock book produced to the inspecting officers was not considered. They have explained the activity of their business in manufacturing/processing involved in their unit.*
>
> *The inspection was conducted during more than a week, but the dealers have not put fourth these reasons, before the inspecting officers and hence the reply filed now, regarding the stock held at*

> *the time of inspection, is not accepted one. If they have maintained the day to day stock account actually, they should have produced the same before the inspecting officers. Hence, the reply regarding defect No.3 is rejected.*

2. The Assessment function is quasi-judicial in nature and must be performed independently by the authorities vested with the power to make assessment. The impugned proceedings stands vitiated inasmuch as the Assessing Officer has rejected the objection on the premise that the same was not submitted before the Inspecting Officer. The impugned order is liable to be set aside. One more opportunity is granted to the petitioner to submit its objections before the Assessing Officer within a period of two weeks from the date of receipt of a copy of this order. It is made clear that the Assessing Officer shall apply his mind independently to the objections and materials produced by the petitioner, if any. The respondent shall thereafter pass orders within a period of eight weeks from the date of receipt of a copy of the objections, in accordance with law, after granting a reasonable opportunity to the petitioner. In view of the same, the impugned

proceedings in Form GST DRC-07-GSTIN.33AAMFB1193RIZZ/2021-22 dated 07.10.2022 issued by the Respondent is set aside.

3.Accordingly, this writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

18.11.2022

Index : Yes / No
Speaking Order : Yes / No
sbn

To

The Assistant Commissioner (ST),
Karur-2 Assessment Circle,
Karur District.

MOHAMMED SHAFFIQ, J.

sbn

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