IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.01.2023

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.No.2389 of 2023
and
W.M.P.Nos.2476 & 2477 of 2023

M/s.Primox Steels,
Rep. by its Proprietor,
Sri K.A.Santhosh Kumar,
77/283, 3rd Street,
Varnapuram, Anna Nagar,
Bhavani - 638 301. ... Petitioner

vs.

1.The Joint Commissioner (ST),
Intelligence,
Erode Division.

2.The State Tax Officer,
Collection & Arrears,
O/o. The Deputy Commissioner (ST),
Inspection, Erode.

3.The Assistant Commissioner (ST),
Bhavani Assessment Circle,
Erode. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records of the 1st respondent in FORM GST INS-I/SL.No.171/2022-23 and quash the impugned proceeding dated 21.12.2022 passed therein and further direct the 2nd respondent not to proceed on the basis of the impugned proceeding issued by the 1st respondent.

For Petitioner : Mr.B.Raveendran

For Respondents : Mr.Prasanth Kiran
Government Advocate

ORDER

By consent of both the parties, this writ petition has been taken up for final disposal at the admission stage itself.

2. Mr.Prasanth Kiran, learned Government Advocate accepts notice on behalf of the respondents.

3. This writ petition has been filed challenging the impugned order passed by the first respondent in FORM GST INS-I/SL.No.171/2022-23 dated 21.12.2022 and for a consequential direction to the 2nd respondent not to proceed on the basis of the impugned proceeding issued by the 1st respondent.

4. Heard Mr.B.Raveendran, learned counsel for the petitioner and Mr.Prasanth Kiran, learned Government Advocate appearing for the respondents.

5. The only issue that arises for consideration in this writ petition is whether the impugned authorisation dated 21.12.2022 issued by the Joint Commissioner (ST) (Intelligence), Erode Division, Erode, is in accordance with law. The petitioner has also challenged the consequential intimation letters issued by the second respondent all dated 07.01.2023. The impugned authorisation dated 21.12.2022 has been issued by the first respondent as per the provisions of Section 67 of the TNGST Act, 2017.

6. According to the petitioner, it is not sufficient for the first respondent to disclose that he had reasons to believe for carrying out inspection under Section 67 of the TNGST Act, 2017. According to the petitioner, the proper officer must disclose the exact reasons, which he has not disclosed under the impugned authorisation dated 21.12.2022.

7. Admittedly, subsequent to the impugned authorisation dated 21.12.2022, the Inspecting Officer/second respondent has inspected the premises of the petitioner and has collected records/documents from him. Thereafter, the second respondent has also sent intimation letters all dated 07.01.2023 to the petitioner disclosing the defects pursuant to the inspection carried out by him based on the impugned authorisation dated 21.12.2022 issued under Section 67 of the TNGST/CGST Act, 2017. In the impugned intimation letters dated 07.01.2023, the defects committed by the petitioner has been pointed out by the second respondent. In the impugned intimation letters dated 07.01.2023, the penalty proposed under Section 74 of the TNGST and CGST Act, 2017 has also been disclosed to the petitioner. Under the impugned intimation letters dated 07.01.2023, the petitioner has been called upon to submit a reply within a period of 15 days from the date of the said intimation letter, failing which, the second respondent has cautioned the petitioner that the proposals made in the intimation letter will be confirmed. An opportunity of personal hearing has also been granted to the petitioner on 24.01.2023 under the impugned intimation letters dated 07.01.2023. The petitioner has not sent any reply to the same. The petitioner contends that the second respondent has got no

jurisdiction to issue the impugned intimation letters. According to him, only the third respondent is having the said jurisdiction. Admittedly, no final orders have been passed pursuant to the impugned intimation letters all dated 07.01.2023. When inspection has been carried out pursuant to the impugned authorisation dated 21.12.2022 and that too, when no final orders have been passed and only an intimation has been given to the petitioner about the proposal to levy taxes, interest and penalty and the petitioner has also been given an opportunity to submit a reply and has also been afforded with personal hearing, the question of entertaining this writ petition at this stage will not arise, as it is premature. However, necessarily the contentions of the petitioner as raised in this writ petition including questioning the jurisdiction of the second respondent to issue the intimation letters all dated 07.01.2023 has to be decided by the third respondent before passing final orders after affording an opportunity of personal hearing to the petitioner and also considering their reply, which they propose to send in due course.

8. For the forgoing reasons, this writ petition is disposed of by directing the petitioner to submit a reply to the impugned show cause notice and the intimation letters all dated 07.01.2023 to the third respondent

within a period of two weeks from the date of receipt of a copy of this order stating the contentions that have been raised in this writ petition. On receipt of the said reply within the stipulated time, the third respondent shall pass final orders on merits and in accordance with law, after giving due consideration to the contentions raised by the petitioner, within a period of four weeks thereafter. No costs. Consequently, connected miscellaneous petitions are closed.

30.01.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
rsi

To

1.The Joint Commissioner (ST),
Intelligence,
Erode Division.

2.The State Tax Officer,
Collection & Arrears,
O/o. The Deputy Commissioner (ST),
Inspection, Erode.

3.The Assistant Commissioner (ST),
Bhavani Assessment Circle,
Erode.

ABDUL QUDDHOSE, J.

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