IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.10.2023
Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.Nos.22502 and 22506 of 2021
and
W.M.P.Nos.23724 and 23728 of 2021

Tvl. S.S.Metals
rep. by its Proprietor Mr.A.Syed Shikkandar

Petioner in both W.Ps.

Vs.

1. The State Tax Officer,
Group V, Inspection II,
Intelligence – II, PAPJM Buildings,
Greams Road, Chennai – 600 006.

..R-1 in W.P.No.22502 of 2021

2. The State Tax Officer,
Central Intelligence Cell,
Intelligence – II, PAPJM Buildings,
Second Floor, Greams Road, Chennai – 600 006.

..R-1 in W.P.No.22506 of 2021

2. The Deputy Commissioner (ST)
Inspection -II InIntelligence – II, PAPJM Buildings,
Second Floor,Greams Road, Chennai – 600 006.

3. The Assistant Commissioner (ST)
Alandur Assessment Circle,
I.C.T. & R.D. Buildings (South Tower)
IIIrd Floor, Nandanam, Chennai – 600 035.
...Respondents 2 and 3 in both W.Ps.

Common Prayer :-

Writ Petitions filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the first respondent not to harass the petitioners till the third respondent completes the assessment proceedings in pursuance to his notice GSTIN : 33CHHPS1611K1ZD/2018-19 and 33CHHPS1611K1ZD/2019-20 dated 12.03.2021 in accordance with law after providing due opportunity to the petitioner.

Appearances of the counsels in both W.Ps.

For Petitioner	:	Mr.D.Vijayakumar
For Respondents 1 -3	:	Ms.Amirta Dinakaran Government Counsel

COMMON ORDER

Both the Writ Petitions are filed seeking for a issuance of a Writ of Mandamus directing the first respondent not to harass the petitioners till the third respondent completes the assessment proceedings in accordance with law after providing due opportunity to the petitioner.

2. Mr.D.Vijayakumar, learned counsel appearing for the petitioner would submit that the grievance of the petitioner is that even before the third respondent completes the assessment proceedings for the years 2018-19 and 2019-20, the first respondent is harassing the petitioner.

2.1 The learned counsel paramounted his arguments by submitting that originally the third respondent issued a notice dated 12.03.2021 stating that the dealer, viz., Tvl.Royal Steel Traders is a non-existent dealer and that the petitioner is trading with a non-existent dealer and therefore, called for reply/objection from the petitioner for reversal of ITC, to which, the petitioner submitted reply together with all supporting documents in support of their claim for ITC, however, in the interregnum, the first respondent, pursuant to a surprise check conducted at the business premises of the petitioner, recovered certain documents and also issued a prohibition order, dated 21.09.2021, and though the petitioner requested the first respondent to lift the prohibition order, the first respondent insisted for payment of demanded tax and the petitioner, having left with no other option paid a sum of Rs.10,00,000/-. Therefore, the learned counsel contended that even before the third respondent could complete the assessment proceedings, the petitioner may not be put to any prejudice due to any pressure exerted by the first respondent and hence, prayed for appropriate direction.

3. Ms.Amirta Dinakaran, learned Revenue Counsel for the respondents would submit during a surprise inspection conducted at the petitioner's premises business, it was found that the petitioner availed ITC in respect of a non-existent dealer, and therefore, third respondent issued notice, calling forth the petitioner's objections/reply with regard to the wrong availment of ITC and since the assessment is based on the alleged suppression of fact, the respondent-Department is not in a position to complete the assessment in time, and in regard to the same, the respondent-Department also sent a reminder notice, thereby, providing an opportunity of hearing to the petitioner, however, despite the same, the petitioner has not appeared. However, the learned Revenue Counsel based on instructions, now received from the respondent-Department would submit that the respondents are in the process of completing the assessment proceedings.

4. Refuting such contention, the learned counsel for the petitioner would submit that on receipt of the reminder notice, the petitioner has appeared before the respondent-Department, however, since the grievance of the petitioner is only with regard to prolonged assessment proceeding, the learned counsel prayed that the petitioner would be satisfied if a direction is issued to the first respondent to complete the assessment proceedings in a time bound manner and till such time, the petitioner shall not be subjected to harassment at the hands of the first respondent.

5. Intervening at this stage, the learned Revenue Counsel for the respondent-Department would submit that the first respondent is not a competent Authority to complete the assessment proceedings and only the third respondent, Assessing Officer is the competent Authority to consider the petitioner's prayer and therefore, pleaded that direction may be issued to the third respondent for completion of the assessment proceedings.

6. Heard the learned counsel for both sides and perused the materials available on record.

7. In the light of the above and considering the fact that the petitioner's grievance is only with regard to prolonged assessment proceedings pertaining to the assessment years 2018-19 and 2019-20 and also taking into consideration of the submission of the learned Revenue Counsel for the respondent-Department that third respondent is the competent Authority to complete the assessment proceedings and the first respondent is not having jurisdiction to consider the same, this Court is of the view that it would be suffice to dispose of the Writ Petitions by directing the third respondent to complete the assessment for the assessment years 2018-19 and 2019-20 within a period of 30 days from the date of receipt of a copy of this order, or as otherwise permissible in accordance with law.

8. Accordingly, both the Writ Petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

09.10.2023

sd

Index : yes/no
Neutral Citation : yes/no

To

1. The State Tax Officer,
   Group V, Inspection II,
   Intelligence – II, PAPJM Buildings,
   Greams Road, Chennai – 600 006.
2. The State Tax Officer,
   Central Intelligence Cell,
   Intelligence – II, PAPJM Buildings,
   Second Floor, Greams Road, Chennai – 600 006.
3. The Deputy Commissioner (ST)
   Inspection -II InIntelligence – II, PAPJM Buildings,
   Second Floor,Greams Road, Chennai – 600 006.

4. The Assistant Commissioner (ST)
   Alandur Assessment Circle,
   I.C.T. & R.D. Buildings (South Tower)
   IIIrd Floor, Nandanam, Chennai – 600 035.

Krishnan Ramasamy,J.,

sd

W.P.Nos.22502 and 22506 of 2021

09.10.2023