BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.06.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) Nos.13248 to 13252 of 2023
and
W.M.P(MD) Nos.11192, 11193, 1196, 11197, 11200, 11202, 11201, 11203, 11198 and 11199 of 2023

Tvl.Matha Steels,
Rep by its Proprietor:A.Guna Jesus,
No.41, Palanisamy Nagar, Viraganoor Ring Road,
Madurai-625 009. ... Petitioner (in all petitions)

Vs.

The State Tax Officer,
Thiruparankundarm Assessment Circle,
Madurai. ... Respondent (in all petitions)

Common Prayer :- Petitions 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 GSTIN:33ALJPG6562B1ZF/2017-18, GSTIN:33ALJPG6562B1ZF/2018-19, GSTIN:33ALJPG6562B1ZF/2019-20, GSTIN:33ALJPG6562B1ZF/2020-21, GSTIN:33ALJPG6562B1ZF/2021-22 respectively dated 09.03.2023 and quash the same as illegal, invalid and against the principles of natural justice.

For Petitioner : Mr.A.Chandrasekaran

For Respondent : Mr.J.John Rajadurai
Government Advocate
(in all petitions)

COMMON ORDER

The present writ petitions are filed challenging the orders passed by the respondent dated 09.03.2023 on the ground that the orders have been passed without taking into consideration the documents filed by the petitioner and without conducting an independent enquiry. That apart, the petitioner would submit that the orders in question are non-speaking orders.

2. It is the case of the petitioner that they are dealers in ferrous scraps and an assessee on the file of the respondent registered under the Goods and Services Tax Act. The petitioner's place of business was inspected by the intelligent wing officials on 23.02.2022 and at the time of inspection, the Inspecting Officers had alleged various defects in the calculation of tax and other amounts for the assessment years from 2017-2018 to 2021-2022. The petitioner was asked to make the payment, which they have refused and they had sought time for making

their explanation. The statement was obtained from the petitioner and without verifying books of accounts and other documents and without affording an opportunity to the petitioner, the Inspecting Officers had arrived at a huge tax demand for the five assessment years without considering the documents submitted by the petitioner. Thereafter, the respondent has also followed the same and has passed the orders without considering the documents submitted by the petitioner. The petitioner, while uploading the same on the GST portal on 29.12.2022, had sought for personal hearing and had thereafter, attending the personal hearings on 18.01.2023, 08.02.2023 and 21.02.2023. Despite the same, the impugned orders have come to be passed.

3. Heard the learned counsel appearing on either side.

4. A mere perusal of the impugned orders would clearly substantiate the contention of the petitioner that there is a total non-application mind and the orders are non speaking one. Despite the fact that the petitioner had submitted the documents, the respondent has not referred to the same and on the contrary, has stated that no

documentary evidence has been produced totally overlooking the objections and the documents uploaded in FORM DRC-06 on 29.12.2022. The operative portion of the orders simply reads as follows:-

> *"in view of the above and by considering the objections filed by the taxable person vide letter dated 29.12.2022 and by attending to the personal hearing (3 occasions) in person, order is now passed for the years 2017-18, 2018-19, 2019-20, 2020-21 and 2021-22"*

5. It is clearly evident that the same is a non-speaking one and there is an absolute non-application of mind on the part of the respondent. Hence, these writ petitions are allowed and the impugned orders dated 09.03.2023 passed by the respondent is set aside and the matters are remitted back for fresh consideration. The respondent shall pass appropriate orders within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

08.06.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes

To

The State Tax Officer,
Thiruparankundarm Assessment Circle,
Madurai.

P.T.ASHA, J.

cp

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