IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **09.02.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Writ Petition Nos.6323, 6329, 6332, 6333 & 6335 of 2021
and W.M.P.Nos.6937, 6942, 6945, 6947 & 6949 of 2021

In all WPs.

M/s.SLO Steels Limited,
Represented by its Director,
Mr.Pratap Kumar Rakesh,
403/D, T.H.Road,
Thiruvottiyur, Chennai-19. ... Petitioner

-vs-

The Assistant Commissioner (ST),
Thiruvottiyur Assessment Circle,
Integrated Commercial Taxes Complex,
32, Elephant Gate Bridge Road,
Chennai-3. ... Respondent

Prayer in W.P.No.6323 of 2021: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records of the respondent in TIN 33511102895/2007-2008 dated 30.12.2020 and quash the same.

Prayer in W.P.No.6329 of 2021: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records of the respondent in TIN 33511102895/2008-2009 dated 30.12.2020 and quash the same.

Prayer in W.P.No.6332 of 2021: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records of the respondent in TIN 33511102895/2009-2010 dated 30.12.2020 and quash the same.

Prayer in W.P.No.6333 of 2021: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records of the respondent in TIN 33511102895/2010-2011 dated 30.12.2020 and quash the same.

Prayer in W.P.No.6335 of 2021: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records of the respondent in TIN 33511102895/2011-2012 dated 30.12.2020 and quash the same.

In all WPs.

For Petitioner : Mr.S.Ravichandran

For Respondent : Mrs.K.Vasanthamala, Govt. Advocate (T)

COMMON ORDER

In these five writ petitions, the assessment orders corresponding to the relevant assessment years are impugned.

2. The petitioner asserts that he was a registered dealer under the Tamil Nadu Value Added Tax Act, 2006 and the Central Sales Tax Act, 1956. Consequently, he had filed returns and paid the tax dues based on the turnover reported in such returns. Pursuant to an inspection of the petitioner's place of business by officers of the Enforcement Wing on 08.07.2010, it is stated that proceedings were initiated. An assessment order was issued in April 2015 and such assessment order was set aside in W.P.Nos.16053 to 16056, by order dated 27.04.2015. According to the petitioner, written submissions were filed before the respondent in compliance with directions issued by this Court in the above mentioned order. There was no communication from the respondent thereafter for about five years. Eventually, the respondent issued notice dated 18.09.2020 and a personal hearing was fixed on 18.11.2020. The petitioner requested for about 45 days' time to respond since documents and information dating

back by more than five years was required. By submitting that the impugned assessment orders were issued in the above facts and circumstances, the writ petitions were filed.

3. By inviting my attention to the letter dated 12.11.2020 requesting for 45 days' time to respond to the notices dated 03.11.2020, learned counsel for the petitioner submits that the petitioner seeks an opportunity to place all relevant documents on record so as to contest the tax demand of the respondent. He further submits that if such opportunity is denied, great hardship would be caused to the petitioner.

4. Mrs.K.Vasanthamala, learned Government Advocate, counters these contentions by pointing out that the petitioner was provided multiple opportunities to respond to the notices issued by the respondent. In this connection, she refers to the notices issued both in September 2020 and November 2020. She also points out that the impugned assessment orders were issued in December 2020 and that the petitioner had sufficient time.

5. On examining the impugned assessment orders, it is evident that the petitioner was not heard when such orders were issued. Undoubtedly, the said situation transpired because the petitioner did not attend the personal hearing by citing the necessity to perform religious ceremonies consequent to the demise of the father of the manager of the petitioner company. Thus, the tax demands against the petitioner under multiple heads were confirmed without the petitioner being heard.

6. The documents on record disclose that several opportunities were provided to the petitioner before the impugned assessment orders were issued. Ordinarily, the petitioner would have been required to assail the assessment orders by filing statutory appeals upon remitting 20% of the disputed tax demand. In order to balance the revenue interest against the petitioner's interest in contesting the tax demand, it is necessary to interfere with the assessment orders by putting the petitioner on terms.

7. For reasons set out above, the assessment orders are quashed solely for the purpose of providing an opportunity to the petitioner, albeit on

condition that the petitioner remits 20% of the tax demand in each assessment order as a precondition for reassessment. Such amount shall be remitted by the petitioner within four weeks from the date of receipt of a copy of this order. Subject to the said condition being fulfilled, the assessment orders are quashed and the assessing officer is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue fresh assessment orders within two months from the date of remittance of 20% by the petitioner.

8. The writ petitions are disposed of on the above terms without any order as to costs. Consequently, connected miscellaneous petitions are closed.

09.02.2024

Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No

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To

The Assistant Commissioner (ST),
Thiruvottiyur Assessment Circle,
Integrated Commercial Taxes Complex,
32, Elephant Gate Bridge Road,
Chennai-3.

SENTHILKUMAR RAMAMOORTHY,J

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