IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2024

CORAM :

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No.7354 of 2022

M/s. Kamachi Steels Ltd.
Rep. By its Director: Sri Vinod Kothari
No.664, T.H.Road
Tondiarpet, Chennai – 600 081. .. Petitioner

Vs.

The Assistant Commissioner (ST)
Manali Assessment Circle
Wall Tax Road, Chennai. .. Respondent

Prayer: Petition filed under Article 226 of the Constitution of India for a writ of certiorari, calling for the records relating to the order passed by the respondent in TNGST/1081898/2003-04 dated 22.02.2022 and quash the same as vitiated on account of total non-application of mind, a non-speaking order, made in violation of principles of natural justice, failure to consider the relevant facts and arbitrary and unsustainable in law.

For the Petitioner : Mr.M.A.Mudimannan

For the Respondent : Mr.C.Harsha Raj
Additional Government Pleader

ORDER

This is the second round of litigation before this Court. Earlier, the petitioner has suffered an adverse order for the Assessment Year 2003-04 under the provisions of the Tamil Nadu Goods and Service Tax Act, 1959, on 10.02.2009. The order was the subject matter of consideration before this Court in W.P.No.3628 of 2009. By the order dated 30.06.2009, the said writ petition was disposed of with the following observations:-

> *"5. The said submission of the learned counsel for the respondent is recorded. In view of the same, the impugned order of the respondent dated 10.02.2009 is set aside. The petitioner is directed to visit the office of the respondent within a week from the date of receipt of a copy of this order to receive the documents and submit his objections for the said document within a period of two weeks from the date of receipt of the documents and therefore, it is open to the respondent to pass fresh orders in accordance with law."*

2. It is the case of the petitioner that the order passed by this Court on 30.06.2009 in W.P.No.3628 of 2009 was not complied by the respondent and therefore, the impugned order is arbitrary and is liable to be set aside. That apart, it is also submitted that there is a long delay of more than thirteen years since the order has been passed by this Court and despite the same, the respondent has not

furnished any documents to the petitioner.

3. Learned Additional Government Pleader for the respondent would submit that the petitioner did not come forward to collect the informations and therefore, the respondent cannot be found fault with for passing the impugned order. Learned Additional Government Pleader would also submit that even otherwise, the writ petition is devoid of merits and is liable to be dismissed as the petitioner has the alternate remedy under the provisions of the Tamil Nadu Goods and Service Tax Act, 1959.

4. Having considered the submissions made by learned counsel for the petitioner and the learned Additional Government Pleader, this Court is of the view that there is a palpable violation of principles of natural justice and therefore, the impugned order is liable to be set aside and the case shall be remitted back to the respondent to pass fresh orders.

5. Considering the same, the impugned order is quashed and

the case is remitted back to the respondent to pass fresh orders, on merits and in accordance with law, as expeditiously as possible preferably within a period of six months from the date of receipt of a copy of this order. In the meanwhile, the respondent shall furnish all the documents that are required for the petitioner to defend itself in the show-cause notice, which preceded the order dated 10.02.2009, which stood confirmed by the impugned order dated 29.02.2022.

6. The writ petition, as such, stands disposed of. There shall be no order as to costs. Consequently, W.M.P.No.7377 of 2022 is closed.

08.11.2024

Index : Yes/No

drm

To

1. The Assistant Commissioner (ST)
   Manali Assessment Circle
   Wall Tax Road, Chennai.

C.SARAVANAN,J.

(drm)

W.P.No.7354 of 2022

08.11.2024