IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **21.03.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Writ Petition No.7570 of 2024
and W.M.P.Nos.8487 & 8488 of 2024

N G A Steels Private Limited
Represented by its Chairman
N Anbalagan
No.528/2A, 2B, 3B, 10
Pappankadu, Karukkampalayam,
Morur Post, Sankari-637 304. ... Petitioner

-vs-

The Assistant Commissioner (ST)(FAC),
Sankari Assessment Circle
1st Floor RDO Office Building
Thiruchengode Road,
Sankari-637 301. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari to call for the impugned proceedings of the Respondent passed in GSTN:33AAACN7854J1Z9/2020-2021 dated 29.12.2023 and quash the same.

For Petitioner : Mr.N.Murali

For Respondent : Mr.C.Harsha Raj
Addl. Govt. Pleader (Taxes)

ORDER

An assessment order dated 29.12.2023 is the subject of challenge.

2. The petitioner is engaged in the manufacture of TMT bars. The petitioner's place of business was inspected on 06.09.2022 by the Intelligence Wing Officers attached to the respondent. On the basis of such inspection, an intimation was issued in August 2023. This was followed by a show cause notice in September 2023. Such show cause notice was replied to by the petitioner in November 2023. Eventually, the order impugned herein was issued on 29.12.2023.

3. Learned counsel for the petitioner referred to the impugned order and pointed out that the respondent proceeded entirely on the basis of power consumption on the date of inspection on 06.09.2022. He submits that the impugned order is unsustainable for multiple reasons. His first contention is

that the order was issued on best judgment basis and that there is no power to issue an order on such basis in cases where the petitioner has filed returns. He next submits that the determination of turnover entirely on the basis of power consumption is untenable. In support of such contention, he relies upon the judgment of the Division Bench of this Court in *Kalyani Oil Mills v. The State of Madras, 1973 SCC OnLine Mad 267.* He also submits that the date of inspection was 06.09.2022, whereas the assessment period was 2020-2021. Consequently, he submits that the very basis for assessment is totally flawed. His last contention was that the relevant assessment period was adversely impacted by the COVID-19 pandemic and that this was the reason for reporting lower turnover during that period.

4. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice for the respondent. At the outset, he submits that the petitioner has an alternative statutory remedy. His next submission was that the assessment proceedings related to eight defects. After considering the submissions of the petitioner, he points out that proceedings in respect of seven defects were dropped. As regards this defect, he points out that the assessing officer was

constrained to make the assessment on best judgment basis because the petitioner failed to produce any supporting evidence. Therefore, he concluded his submissions by stating that no case is made out for interference under Article 226 of the Constitution of India.

6. The documents on record reveal that the impugned order was preceded both by an intimation and a show cause notice. It is also clear that the petitioner replied to the show cause notice and was heard before the impugned order was issued. On examining the impugned order, as contended by learned Additional Government Pleader, it appears that the assessing officer considered the submissions of the petitioner and dropped proceedings relating to seven out of eight defects. As regards Defect No.4 pertaining to sales suppression, it was recorded, in relevant part, as under:

> *"... The taxable person has not produced any supporting evidence for actual production details like quantity and quality of raw materials utilized, tonnes produced, etc either at the time of inspection or at the time of adjudicating process. They do not have any specific proper details defend except narrated verbal contentions in*

support of their objections."

Since there is no violation of principles of natural justice and the order in relation to Defect No.4 was issued in the circumstances captured in the above extract from the impugned order, I am not inclined to exercise discretionary jurisdiction .

7. Therefore, W.P.No.7570 of 2024 is dismissed by leaving it open to the petitioner to assail the impugned order by way of a statutory appeal. Consequently, connected miscellaneous petitions are closed. No costs.

21.03.2024

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

The Assistant Commissioner (ST)(FAC),
Sankari Assessment Circle
1st Floor RDO Office Building
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SENTHILKUMAR RAMAMOORTHY,J

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