IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.18777 of 2024 &
W.M.P.Nos.20593 of 2024 & 20595 of 2024

Tvl.Rajendra Steel Industries,
Represented by its Partner, Manish Kumar Bhansali,
41/1, Ground Floor, Armenian Street,
Broadway, Chennai- 600 001
Krishnagiri - 635 126 ... Petitioner

Vs.

The Assistant Commissioner (ST)(FAC),
Loansquare Assessment Circle,
No.32, Third Floor, Elephant Gate Bridge Road,
Chennai- 600 003. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records of the order passed by the Respondent dated 28.12.2023 in Reference No.33AAHFR8250J1Z0/2017-18 and to quash the same.

For Petitioner : Mr.Adithya Reddy

For Respondent : Mr.C.Harsha Raj
Additional Government Pleader (Taxes)

O R D E R

This writ petition has been filed by the petitioner challenging the order dated 28.12.2023 passed by the respondent.

2. Mr.C.Harsha Raj, learned Special Government Pleader takes notice on behalf of the respondent.

3. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

4. The learned counsel for the petitioner submitted that pursuant to the show cause notice issued to the petitioner, the respondent sent a notice to the petitioner for personal hearing on 08.11.2023 and the same was returned as unserved for the same was served in the Petitioner's premises which was already closed down and the 2nd notice for personal hearing was sent to him by way of E-mail on 04.12.2023 fixing the date of hearing as 04.12.2023, since 04.12.2023 was declared as public holiday because of cyclone, the Petitioner requested the Respondent to fix the personal hearing by the following week, but, instead of fixing it the following week, the Respondent has fixed the personal hearing on 20.12.2023. Since the Petitioner was not in a position to attend on the said date he requested to fix

the date for personal hearing on 27.12.2023. Inspite of the said request being made by the Petitioner, impugned order dated 28.12.2023 came to be passed. Therefore, the learned counsel for the Petitioner submitted that the impugned order was passed without providing an opportunity of personal hearing to the Petitioner.

5. On the other hand, Mr.C.Harsha Raj, learned Government Pleader appearing for the Respondent submitted that despite several opportunities being given to the Petitioner for personal hearing, the Petitioner has not chosen to appear before the Respondent to substantiate its claim and hence the impugned order came to be passed.

6. I have given due consideration on the submission made by the learned counsel appearing on either side and perused the materials available on record.

7. A perusal of the records shows that though impugned order was passed on 28.12.2023 and the Writ petition was filed only on 01.07.2024 and therefore this Writ Petition is not maintainable and there is no fault on the part of the Respondent in passing the Assessment Order.

8. In view of the same, when this Court was about to dismiss this Writ Petition, the learned counsel for the petitioner would submit that the petitioner is now ready and willing to pay 15% of the demand made by the respondent in the event of providing an opportunity of personal hearing to them to substantiate their claim, for which, the learned Additional Government Pleader (Taxes) has no serious objection.

9. Considering the submissions made by the learned counsel on either side, this court passes the following order:-

> (i) The orders impugned herein are set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay 15% of the disputed tax to the respondent within a period of four weeks from the date of receipt of a copy of this order and the setting aside of the impugned orders will take effect from the date of payment of the said amount.
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> (ii) After the payment of the said amount, the Respondent shall once again provide an opportunity of personal hearing to the Petitioner and thereafter pass appropriate orders on merits and in accordance with law, after providing an opportunity of personal hearing to the petitioner, as expeditiously as possible.

10. Accordingly, the writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

05.08.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No

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To

The Assistant Commissioner (ST)(FAC),
Loansquare Assessment Circle,
No.32, Third Floor, Elephant Gate Bridge Road,
Chennai- 600 003.

KRISHNAN RAMASAMY.J.,
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