IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.08.2024

CORAM

THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.P.Nos.19757, 19759, 19763 and 19766 of 2024
and W.M.P.Nos.21636, 21637, 21638, 21639,
21647, 21649, 21651 and 21652 of 2024

Shri Gog Steel Alloys Private Limited,
GSTIN: 33ABACS7730D1ZO,
Represent by its Director S.Kantilal Choudhary,
24/2, Bharathi Nagar, 4th Street Extension,
Ganapathy, Coimbatore - 641 006. ... Petitioner in all W.Ps.

Vs.

1. The State Tax Officer (FAC),
   Avarampalayam Circle, Commercial Tax Building,
   Dr.Balasundaram Road, Coimbatore - 641 018.

2. The Superintendent (Central Tax),
   Coimbatore - IIA Range, Coimbatore II Division,
   1441 - Elgi Building, Trichy Road,
   Coimbatore - 641 018.

3. The Assistant Commissioner (Central Tax),
   Coimbatore II Division,
   1441 - Elgi Building, Trichy Road,
   Coimbatore - 641 018. ... Respondents in all W.Ps.

PRAYER in W.P.No.19757 of 2024: This Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorari, to call for the records pertaining to the impugned order in Form DRC -07 bearing reference number ZD330224013425Z/2018-19, dated 03.02.2024 issued by the first respondent and quash the same.

PRAYER in W.P.No.19759 of 2024: This Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorari, to call for the records pertaining to the impugned order in Form DRC -07 bearing reference number ZD330124124137Y/2021-22, dated 26.01.2024 issued by the first respondent and quash the same.

PRAYER in W.P.No.19763 of 2024: This Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorari, to call for the records pertaining to the impugned order in Form DRC -07 bearing reference number ZD330224013831Y/2019-20, dated 03.02.2024 issued by the first respondent and quash the same.

PRAYER in W.P.No.19766 of 2024: This Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorari, to call for the records pertaining to the impugned order in Form DRC -07 bearing reference number ZD330224014196V/2020-21, dated 03.02.2024 issued by the first respondent and quash the same.

For Petitioner in all W.Ps. : Mr. C.Derrick Sam

For Respondent in all W.Ps. : Mr.C.Harsha Raj
Additional Government Pleader (Tax)

- - - -

COMMON ORDER

These Writ Petitions are filed challenging the impugned orders passed by the Assessing Authority.

2. The learned counsel for the petitioner submits that the entire proceedings were completed by uploading the notices/impugned orders in the GST portal under "Additional Notices and Orders". The first respondent has issued DRC-01A dated 08.06.2022 and the petitioner filed the reply on 05.05.2023. Since the respondent has uploaded the notices in the portal, the petitioner was unaware about DRC-01A. He further submits that the petitioner opted for cancellation of registration, which was also cancelled with effect from 11.07.2023 by the second respondent. However, in the present case, the show cause notices were issued for the year 2018-19, 2019-20, 2020-21 and 2021-22. Therefore, he fairly submits that these are all pertaining to before cancellation of the RC. The third respondent has blocked and debited the input tax credit of Rs.28,00,317/- on 14.07.2022. Therefore, he would submit that the petitioner is not in a position to pay any amount in respect of the assessment year 2021-22.

Therefore, he requested for waiver of the entire amount since the petitioner has filed his reply and the same was not considered by the respondent before issuing DRC-01A show cause notice. Hence, the learned counsel for the petitioner submits that the impugned order passed by the respondent may be set aside in all the Writ Petitions.

3. Per contra, the learned counsel for the respondent would submit that in the present case, the petitioner has filed his reply on 05.05.2023. Since the reply was not satisfactory, the show cause notice GST DRC-01A was issued. Though the opportunity of personal hearing was provided, the petitioner did not utilize the same. All the notices were uploaded in the portal and therefore, it is not the fault of the respondent, and it is only the fault of the petitioner. However, he would fairly submit that if any order is passed by this Court, the same will be complied with by the respondent.

4. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents and perused the materials placed before this Court.

5. Since all the notices were uploaded in the portal and the

petitioner has not noticed the same, the RC was cancelled by the respondent on 11.07.2023 due to the reason that the petitioner discontinued the business. In this circumstance, the assessment orders pertaining to the years 2018-19, 2019-20 and 2020-21 are well within the limitation period. However, the assessment order pertaining to year 2021-22 is beyond the limitation period. Therefore, he requested for waiver of pre-deposit of 10%. This Court does not accept the contention of the learned counsel for the petitioner for the reason that the reply of the petitioner was not accepted and that is the reason DRC-01A was issued. Though the notices were uploaded, the petitioner did not file their reply. It is the fault of the petitioner.

6. However, this Court is inclined to grant liberty to the petitioner to avail the appeal remedy and accordingly, the petitioner is permitted to file an appeal before the authority concerned within a period of 30 days from the date of receipt of a copy of this order. The Authority concerned is directed to consider the appeal to be filed by the petitioner after adjusting input tax credit, which was already blocked.

With the above directions, these Writ Petitions are disposed of. There shall be no order as to costs. Consequently, the connected Miscellaneous Petitions are closed.

05.08.2024

asi

To

1. The State Tax Officer (FAC),
   Avarampalayam Circle, Commercial Tax Building,
   Dr.Balasundaram Road, Coimbatore - 641 018.

2. The Superintendent (Central Tax),
   Coimbatore - IIA Range, Coimbatore II Division,
   1441 - Elgi Building, Trichy Road,
   Coimbatore - 641 018.

3. The Assistant Commissioner (Central Tax),
   Coimbatore II Division,
   1441 - Elgi Building, Trichy Road,
   Coimbatore - 641 018.

KRISHNAN RAMASAMY, J.
asi

**W.P.Nos.19757, 19759, 19763 and 19766 of 2024
and W.M.P.Nos.21636, 21637, 21638, 21639,
21647, 21649, 21651 and 21652 of 2024**

05.08.2024