IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **21.02.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Writ Petition No.33255 of 2023
and W.M.P.Nos.32977 & 32980 of 2023

Tvl.Kannappan Alloy and Steel
Company Private Limited,
Represented by its Managing Director,
SF No.262, Merku Thottam,
Karadivavi Road, Anupatti,
Palladam, Tiruppur-641 664. ... Petitioner

-vs-

Assistant Commissioner (ST)
Palladam-2 Assessment Circle,
Palladam. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records relating to order in order No.09/102023/2020-21 dated 17.10.2023 passed by the respondent and quash the same.

For Petitioner : Mr.T.Ramesh

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

ORDER

An assessment order dated 17.10.2023 is the subject of challenge in this writ petition.

2. The petitioner is a company engaged both in manufacturing and trading activities relating to iron and steel products. In course of business, the petitioner had purchased M.S. Scrap and silicon manganese from three entities, namely, Tvl.Lehanaa Enterprises, Tvl.Abhimanyu Alloys and Tvl.Karishma Corporation. After issuing a show cause notice, the impugned assessment order came to be issued with regard to transactions between the petitioner, on the one hand, and either Tvl.Abhimanyu Alloys or Tvl.Karishma Corporation, on the other.

3. Learned counsel for the petitioner referred to the impugned order and pointed out that the reply of the petitioner - tax payer was set out therein. From paragraphs 1.1.8 and 1.1.9 thereof, he pointed out that the petitioner had placed on record several documents to establish the genuine nature of the transaction. He emphasises that many of these are statutory

documents and that these documents clearly establish the purchase, movement and payments in relation to the relevant goods. By turning to paragraph 2.2.2 of the impugned order at page no.46 of the typed set, learned counsel submits that the ITC availed of and utilised by the petitioner was held to be ineligible on the ground that movement of goods from Tvl.Kannappan Iron and Steel Company Private Limited, Karaikal (KISCOL) to the petitioner had not been established. Learned counsel contends, in this regard, that the petitioner can only be called upon to establish the genuineness of purchase from Tvl.Abhimanyu Alloys or Tvl.Karishma Corporation, as the case may be, and not the earlier transactions between KISCOL and Tvl.Karishma Corporation or Tvl.Karishma Corporation and Tvl.Abhimanyu Alloys. He also submits that the assessing officer committed a patent error in trying to match the turnover at each leg of the transaction because it is possible that Tvl.Karishma Corporation or Tvl.Abhimanyu Alloys, as the case may be, may have purchased products from other sources. Since conclusions were recorded on the basis of speculation and inferences were drawn on the basis of transactions unrelated to the petitioner, learned counsel submits that the petitioner should be provided another opportunity to convince the assessing officer by placing all relevant materials on record.

4. Mr.C.Harsha Raj, learned Additional Government Pleader, countered these contentions by relying on the impugned assessment order. By referring to paragraph 2.2.2 of the impugned order, learned counsel points out that the assessing officer examined the outward supply of Tvl.Abhimanyu Alloys and concluded on that basis that a substantial portion thereof related to M.S. Scrap. In turn, the outward supply of M.S. Scrap by Tvl.Abhimanyu Alloys was also examined. He further submitted that the procurement of M.S. Scrap by Tvl.Abhimanyu Alloys, who is a trader, showed that M.S. Scrap was procured from three suppliers and that the bulk of such supply was made by Tvl.Karishma Corporation. By further pointing out that both Tvl.Karishma Corporation and Tvl.Abhimanyu Alloys are entities situated in Coimbatore, learned Additional Government Pleader submitted that there is no infirmity in the conclusion that movement of goods from Karaikal to Coimbatore had not been established by the

petitioner.

5. The impugned order discloses the documents submitted by the petitioner. Apart from statutory returns under applicable GST laws, the petitioner has placed on record invoice copies, inward & outward supplies stock registers, weighment slips, transport vehicle's RC copy, etc. Undoubtedly, the person availing of and utilising ITC is under the statutory obligation to establish the genuineness of transactions by producing all relevant documents in such regard. Since the object of ITC is to avoid the cascading effect, it may also be necessary to examine whether taxes were paid at each leg of the transaction. However, it may not be possible for the petitioner to establish the movement of goods at the earlier legs of the transaction involving supply of goods by KISCOL to Tvl.Karishma Corporation or by Tvl.Karishma Corporation to Tvl.Abhimanyu Alloys. This does not, however, imply that the assessing officer should not examine the issue of circular trading by and between these four entities.

6. The facts and documents on record reveal that several relevant

documents were placed on record by the petitioner, but the assessing officer concluded that the petitioner was not eligible for ITC on the basis of a finding that no toll details are available with regard to actual movement of goods from Karaikal to Coimbatore. In the overall facts and circumstances, I am of the view that a further opportunity should be provided to the petitioner to establish this aspect either on the basis of documents already submitted or by submitting additional documents. Solely for this reason, the impugned order calls for interference.

7. Hence, the impugned assessment order is quashed and the matter is remanded for reconsideration. The petitioner is permitted to submit additional documents to establish the genuineness of the transactions within a maximum period of ten days from the date of receipt of a copy of this order. Upon receipt thereof, the respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and issue a fresh assessment order within a period of two months thereafter. As a consequence of this order, the order of attachment does not survive and stands raised.

8. The writ petition is disposed of on the above terms. There will be

no order as to costs. Consequently, connected miscellaneous petitions are closed.

21.02.2024

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

Assistant Commissioner (ST)
Palladam-2 Assessment Circle,
Palladam.

SENTHILKUMAR RAMAMOORTHY,J.

Kj

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