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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.03.2025

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.10925 of 2025
and
W.P.No.12317 of 2025

Tvl.Century Steels
Rep by its Proprietor:Mr.R.Abdul Hafiz
No.130/4, Manali Express High Road,
Ernavoor, Chennai 600 057. ... Petitioner

Vs.

The State Tax Officer
Manali Assessment Circle
Room No.101, ICT Building,
No.32, Elephant Gate Bridge Road,
Vepery, 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 on the file of the Respondent passed order in TNVAT:33041202045/2014-15 dated 24.09.2024, received on 29.01.2025 and quash the same as illegal contrary to the provisions of TNVAT Act, and in violation of principles of natural justice and fair play.

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For Petitioner : Mr.Pramod Kumar Chopda
Senior Counsel
for Mr.P.Aruna Chopda

For Respondent : Mrs.Amirthapoonkodi Dinakaran
Government Advocate (Taxes)

ORDER

This writ petition has been filed challenging the impugned order dated 24.09.2024 passed by the Respondent and quash the same.

2. Ms.Amirthapoonkodi Dinakaran, learned Government Advocate (Taxes) takes notice for the respondent Respondent. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3. The learned counsel appearing for the petitioner would submit that the respondent passed the revised order dated 30.05.2022 and disallowed the claim of Input Tax Credit (ITC) of Rs.6,99,075/- on the purchases effected from Tvl.Southern Railway. Against the said order, appeal was preferred, in which the appellate authority passed the order dated 14.02.2023 setting aside the reassessment order and remanded the

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matter back for fresh consideration. In pursuance to the same, the petitioner filed copies of delivery order cum invoice issued by Tvl.Southern Railway along with abstract/statement clearly evidencing that for the sales effected by Tvl.Southern Railway to the petitioner who have charged and collected VAT @ 5% over and above value of goods sold and income tax thereon. The petitioner also filed the proof of payment for balance tax as per the monthly return for the month of October 2014. In pursuance of the same, the respondent issued notice for personal hearing on 23.09.2024 and the same was also attended by the petitioner along with above documents and requested the respondent to accept the claim of ITC on purchases effected from Tvl.Southern Railway and delete the levy of tax on alleged nonpayment of tax for the month of October 2014 and penalty. However, to the shock and surprise, the petitioner on 25.01.2025 received the notice dated 09.01.2025 calling the petitioner to pay the alleged arrears of tax and penalty of Rs.10,96,503/-, for which the petitioner filed reply on 27.01.2025. But the respondent without considering the same has passed the impugned order by confirming the notice dated 09.01.2025. Hence, this writ

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petition.

5. On the other hand, the learned Government Advocate (Taxes) appearing for the respondent would submit that subsequent to the receipt of DRC-01 notice, the petitioner filed its reply along with the invoices and upon verification, it has come to light that the southern railways has not reported sales to the petitioner in Annexure II. Therefore, they have proceeded to pass orders.

6. Heard both sides. Perused the records.

7. Considering the facts and circumstances of the case and also submission made, this Court is of the view that the issue pertaining as to whether the southern railway has reported sales to the petitioner in Annexure II or not has to be adjudicated before the appellate authority, by filing appeal as the same cannot adjudicated before this Court.

8. In view of the same, this writ petition is dismissed with liberty to the petitioner to file an appeal before the appellate authority. If the

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petitioner files an appeal before the appellate authority beyond the period of limitation, he shall deposit 5% apart from 10% and upon payment of the same, the respondent shall take the appeal on file and decide the same on merits and in accordance with law.

9. It is represented that some amount has been deposited by the petitioner during the 1st round of litigation before the concerned authority. It is for the petitioner to establish the same before the authority concerned at the time of filing the appeal. No costs. Consequently, connected Miscellaneous Petition is closed.

26.03.2025

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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KRISHNAN RAMASAMY.J.,

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To

The State Tax Officer
Manali Assessment Circle
Room No.101, ICT Building,
No.32, Elephant Gate Bridge Road,
Vepery, Chennai 600 003.

W.P.No.10925 of 2025
and
W.P.No.12317 of 2025

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