

HIGH COURT OF TRIPURA
_A_G_A_R_T_A_L_A_
IA No.01 of 2024 IN WP(C) No.694 of 2021(D/O)

SL Automobiles Private Limited
..... Applicant(s)

V E R S U S

State of Tripura and others
..... Respondent(s)

For Applicant(s) : Mr. B.N. Majumder, Sr. Advocate,
Mr. D.J. Saha, Advocate.

For Respondent(s) : Mr. S.M. Chakraborty, Advocate General,
Mr. P. Gautam, Sr. G.A.,
Ms. P. Chakraborty, Advocate.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH
HON'BLE MR. JUSTICE BISWAJIT PALIT

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12/12/2024

Heard Mr. B.N. Majumder, learned senior counsel assisted by Mr. D.J. Saha, learned counsel appearing for the petitioner. Also heard Mr. S.M. Chakraborty, learned Advocate General assisted by Ms. P. Chakraborty, learned counsel and Mr. P. Gautam, learned senior G.A. appearing for the State-respondents.

The matter has been mentioned today for urgently listing by learned senior counsel Mr. B.N. Majumder on an interlocutory application No.01 of 2024 in respect of a disposed of writ petition i.e. WP(C) No.694 of 2021 decided on 14.03.2023. Learned senior counsel for the petitioner submits that during pendency of the writ petition, by order dated 04.10.2021 (Annexure-2), the Coordinate Bench of this Court had imposed certain conditions by way of interim relief while staying the memorandum dated 25.06.2021 whereby the Superintendent of State Tax had seized the three

motorcars from his showroom and later issued a notice under Section 74(1) of the CGST Act asking the petitioner to pay a sum of Rs.1,28,37,517.43 by way of GST dues with interest and penalty. Those conditions were (i) that the petitioner shall maintain a minimum stock of three Honda motorcars at its Agartala showroom/go-down in Tripura at all points of time and (ii) the Director of the petitioner-company shall file an undertaking to this effect before this Court latest by 10th October, 2021. The learned Court also directed that there shall be no coercive recovery of the demand raised in the impugned order.

The petitioner participated in the proceedings initiated under Section 74(1) of the SGST Act which concluded by order in original dated 04.01.2024 imposing Tax, penalty, cess and interest upon the petitioner to the tune of Rs.1,56,31,492.60/-. Thereafter, the petitioner has preferred an appeal and made a pre-deposit of 10% of the amount in terms of Section 107(4) of the SGST Act. Upon pre-deposit, by virtue of Section 107(4) of the Act, there is an automatic stay on further recovery of the demand, still the respondent-SGST authorities are insisting upon the petitioner to maintain a minimum stock of 3 Honda motorcars at Agartala showroom as per the interim order dated 04.10.2021 though the writ petition was disposed of by the judgment dated 14.03.2023. Even the appellate authority is not paying any heed to the matter. Petitioner has made a prayer vide application dated 13.09.2024 (Annexure-5) before the Appellate Authority, Agartala Enforcement Wing, Tripura. However, no order is being passed thereupon. Neither is the petitioner permitted to sell three vehicles till date kept as an interim measure by virtue of the order dated 04.10.2021 passed during

pendency of the writ petition. Therefore, the petitioner has approached this Court in the present interlocutory application for modification as well as withdrawal of the conditions imposed by the order dated 04.10.2021 when the writ petition was itself disposed of as being premature with liberty to the petitioner to participate in the pending proceedings.

Mr. S.M. Chakraborty, learned Advocate General and Mr. P. Gautam, learned senior G.A appearing for the State submit that there is no order on record which restrains the petitioner from sale or disposal of three Honda motorcars which was an interim condition laid down in the order dated 04.10.2021 by the Coordinate Bench of this Court during pendency of the WP(C) No.694 of 2021. It is further submitted that the interim order gets merged in the final order passed in any such proceedings as is the settled law. As such, this Court in this matter may not be required to make any modification or clarification as the interim order stands merged in the final judgment passed by the learned Writ Court dated 14.03.2023 whereby the learned Writ Court held that the writ petition was premature. Petitioner was granted liberty to approach the appropriate forum.

On consideration of rival submissions of learned counsel for the parties and these specious facts placed from the interlocutory application and the disposed of writ petition and on perusal of the interim order dated 04.10.2021 and the final judgment dated 14.03.2023 passed in the said WP(C) No.694 of 2021, this Court is of the view that the present interlocutory application is not fit to be entertained. Neither is there any order passed by the SGST authorities which shows that the conditions imposed by the interim order have been continued even after disposal of the

writ petition nor such order could be subject matter of the disposed of writ petition through an interlocutory application. It is trite to say that interim orders get merged in the final judgment when the main proceedings are disposed of.

Interlocutory application, is accordingly, disposed of.

(BISWAJIT PALIT) J

(APARESH KUMAR SINGH) CJ

DIPESH DEB

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