In the High Court of Judicature at Madras

Dated : 20.7.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.18530 to 18537 of 2018 &
WMP.Nos.21857 to 21872 of 2018

Tvl.Daeseung Auto Parts India Pvt. Ltd., rep.by its General Manager Yoo Won Ku ...Petitioner

Vs

1.The Appellate Deputy Commissioner (ST), Chennai (South), Chennai-6.

2.The Assistant Commissioner (ST), Sriperumbudur Assessment Circle, Varadarajapuram-123. ...Respondents

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorari to call for the records on the files of the 2nd respondent herein in TIN: 33860863355/ 2008-09, TIN: 33860863355/ 2009-10, TIN: 33860863355/2010-11, TIN: 33860863355/2011-12, TIN: 33860863355/2012-13, TIN: 33860863355/2013-14, TIN: 33860863355/ 2014-15 and TIN: 33860863355/2015-16, all dated 28.2.2018 and quash the same.

For Petitioner : Mr.A.N.R.Jayapratap

For Respondents : Mrs.G.Dhana Madhri, GA

COMMON ORDER

Mrs.G.Dhana Madhri, learned Government Advocate accepts notice for the respondents. Heard both. In view of the limited nature of relief the petitioner seeks before this Court, the writ petitions are taken up for joint disposal even at the admission stage.

2. By virtue of the impugned assessment orders, the assessments have been revised and tax has been demanded apart from levying penalty. As against the levy of penalty, the

petitioner preferred appeals before the first respondent in AP.VAT Nos.35 to 42 of 2018. However, in so far as the assessments pertaining to tax component is concerned, the petitioner admits that they have not preferred any appeal.

3. There are four issues, which read as under :

> "(i) On verification of the purchase invoices and the corresponding input tax credit claimed in monthly returns, it was noticed that input tax was claimed for certain ineligible commodities in respect of Gensets and spares, construction materials, etc., it was stated that input tax credit is not eligible for these commodities;
>
> (ii) Reversed input tax credit in respect of capital goods like beam, pipe and fittings used in civil structures;
>
> (iii) Reversal of input tax credit on the ground that the dealers at the other end had not reported the transaction in their monthly returns annexure II or reported lesser in their annexure II; and
>
> (iv) Levy of tax on sales of assets like imported plant and machinery."

4. The learned counsel for the petitioner submits that even at the time of inspection, the petitioner paid a sum of Rs.8,47,630/-, which was demanded on the ground that the petitioner availed ineligible credit. Therefore, the prayer is made to permit the petitioner to file additional grounds before the first respondent and contest the revision of assessments on merits.

5. Taking note of the fact that the appeals have already been filed questioning the levy of penalty by the impugned orders, no prejudice will be caused if the petitioner is permitted to raise additional grounds in the appeals challenging the revision of assessments themselves.

6. Accordingly, the writ petitions are disposed of by permitting the petitioner to file additional grounds in the pending appeals and contest the revision of assessments. If the additional grounds are filed within a period of two weeks from the date of receipt of a copy of this order, the first respondent shall not reject the same on the ground of limitation, but accept the same and hear the appeals along with the additional grounds well as the grounds already raised by the petitioner. With regard to the condition of mandatory pre-

deposit, it is open to the petitioner to produce necessary proof to show that the petitioner paid a sum of Rs.8,47,630/-, which can be reckoned while calculating the mandatory pre-deposit and furnish fresh Form X before the Appellate Authority. No costs. Consequently, the connected WMPs are closed.

-s/d-
Assistant Registrar(CS-IX)

True Copy

Sub-Assistant Registrar

To
1.The Appellate Deputy Commissioner (ST), Chennai (South), Chennai-6.
2.The Assistant Commissioner (ST), Sriperumbudur Assessment Circle,
Varadarajapuram-123.

+1 CC to Spl. Govt. Pleader(T) sr 49080.
+8 Ccs to Mr.A.N.R.Jayaprathap, Advocate sr 48355.

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SV(CO)
SP(10/08/2018)