

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2020

CORAM

THE HON'BLE MR. JUSTICE C. SARAVANAN

W.P. No. 26953 of 2016

and

W.M.P. No.23176 of 2016

Borg Warner Morse Systems India Private Limited,
Formerly known as BorgWarner Morse TEC (India) Private Limited,
78, 79, SIDCO Industrial Estate,
Thiruvallur - 602 003. ...Petitioner

-vs-

1. Principal Commissioner of Service Tax,
Service Tax - I, Commissionerate, IV Floor,
Newry Towers, No.2054-I,
II Avenue, Anna Nagar,
Chennai - 600 040.
2. Assistant Commissioner of Service Tax,
I Division, 2nd Floor,
Newry Towers, Plot No.2054,
12th Main Road, Anna Nagar,
Chennai - 600 040. ...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to consider the petitioner's representations dated 19.10.2015, 18.06.2016 and 15.07.2016 and furnish the documents and details requested therein to the petitioner.

For Petitioner : Mr. Srinath Sridevan

For Respondents : Mr. A. P. Srinivas,
Standing Counsel.

O R D E R

In this Writ Petition, the petitioner has prayed for directing the respondents to consider the petitioner's representations dated 19.10.2015, 18.06.2016 and 15.07.2016 and furnish the documents and details requested therein to the petitioner.

2. The petitioner was issued with a notice dated 29.11.2013. By the aforesaid notice, the petitioner was called upon to furnish the details of certain document failing which the petitioner was directed to pay the tax. Since the petitioner failed to reply to the aforesaid notice and furnish the required documents, a Show Cause Notice dated 15.09.2015 bearing reference C.No.IV/09/45/2014-STC.Adj was issued. The petitioner replied to the Show Cause Notice by their reply dated 19.10.2015.

3. Thereafter, a hearing was fixed before the 1st respondent on 22.06.2016. The said notice of personal hearing was received by the petitioner on 13.05.2016. On 21.06.2016, vide a communication dated 18.06.2016, the petitioner requested the respondent to furnish the documents which are as under:-

- (a) The Correspondences which culminated in their reply dated 06.01.2014;
- (b) Further action taken by the respondent pursuant to their reply dated 06.01.2014.

4. By a communication dated 23.06.2016, the hearing was re-fixed to 14.07.2016 and by another communication dated 13.07.2016, the personal hearing was re-fixed to 15.07.2016. On 15.07.2016, the petitioner persisted with their request and therefore another opportunity was given to the petitioner to appear on 03.08.2016. Instead of participating in the show cause proceeding, the petitioner has filed the present Writ Petition.

5. It appears that the Writ Petition has been filed only to delay the adjudication mechanism prescribed under the Finance Act, 1994 by taking time for the correspondences which are of no consequence for adjudication of the dispute.

6. If the petitioner was serious about getting information which it had called for, it could have applied for the same under the provisions of the Right to Information Act, 2005. In fact after admission of the present Writ Petition, the petitioner also could have taken such steps. However, no such steps have been taken.

7. The petitioner took repeated adjournments before the 1st respondent only to postpone the hearing and in the process adjudication of the Show Cause Notice has been delayed. In the process, five years have been spent without adjudication of the Show Cause Notice. I find absolutely, there is no merit of the present petition.

8. In light of the above observation, I am dismissing the petition. The petitioner is given a final opportunity to file additional reply if any within a period of thirty days from date of receipt of a copy of this order. In case the petitioner fails to file within such time, the 1st respondent may fix a date for hearing and take of the case for final disposal.

9. Since the dispute pertains to the period between 2010 and 2013, the 1st respondent is requested to pass appropriate orders in accordance with law within a period of three months from date of receipt a copy of this order.

10. The Writ Petition thus stands dismissed with the above observations. No cost. Consequently, Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS III)

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Sub Assistant Registrar

ssi / jen

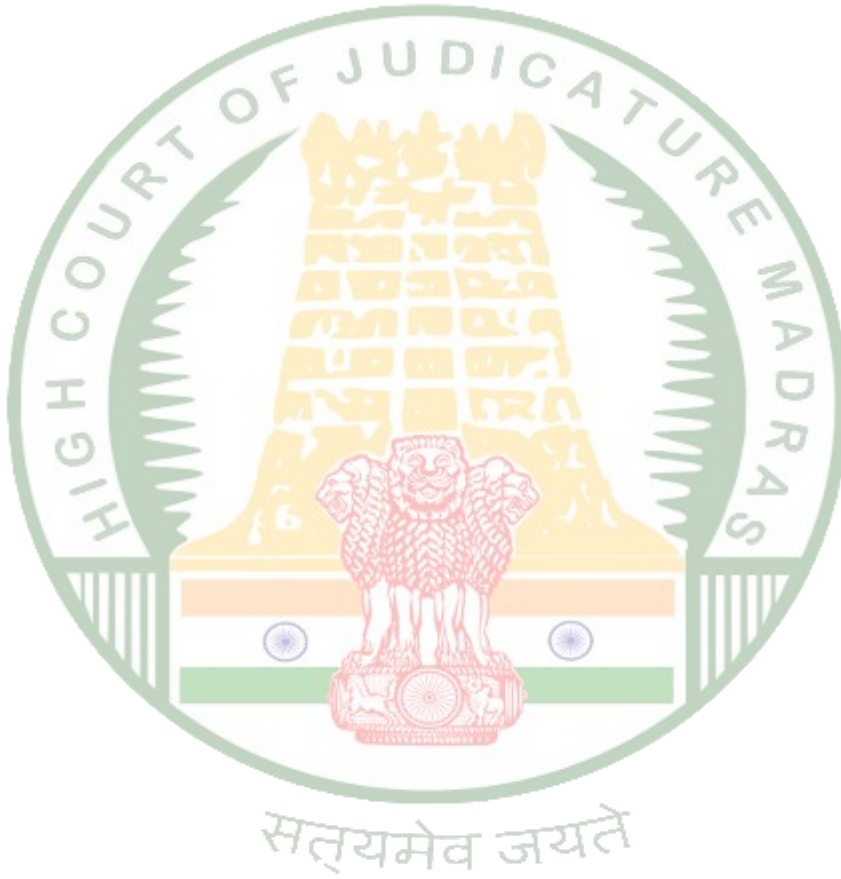
To

- सत्यमेव जयते
1. Principal Commissioner of Service Tax,
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Chennai - 600 040.
 2. Assistant Commissioner of Service Tax,
I Division, 2nd Floor,
Newry Towers, Plot No.2054,
12th Main Road, Anna Nagar,
Chennai - 600 040.

+1cc to Mr.Srinath Sridevan, Advocate, S.R.No.8710
+1cc to Mr.A.P.Srinivas, Advocate, S.R.No.8730

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and
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KJ (CO)
KKV/20/07/2020



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