IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.01.2020

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THE HONOURABLE DR. JUSTICE ANITA SUMANTH

Writ Petition No.26963 of 2018
WMP.No.31342 of 2018

M/s.TAFE Access Limited
Rep. by its Head finance & Accounts
77, Nungambakkam High Road,
Chennai- 600 034

...Petitioner

Vs.

The Assistant Commissioner (ST),
Valluvarkottam Assessment Circle
10, PalaniyappaMaligai
Greams Road, Chennai- 600 006 ... Respondent

PRAYER: PETITION filed under Article 226 of the Constitution of India praying for the issuance of Writ of certiorari, calling for the records of the respondent herein in TIN/33151500696/2016-17 and quash the proceedings dt. 03.10.2018 issued therein.

For Petitioner : Mr.B.Raveendran

For Respondents : Mr.Mohd.Shaffiq
Special Government Pleader

O R D E R

Heard Mr.B.Raveendran, learned counsel for the petitioner and Mr.Mohammed Shaffiq, learned Special Government Pleader.

2. The petitioner challenges an 'Urgent Notice' dated 03.10.2018, calling upon it to pay a sum of Rs.2,17,72,603/-, being Value Added Tax (VAT) in terms of the Tamil Value Added Tax Act, 2006 ('Act') for the period April 2017. The liability to pay tax is not in dispute and the petitioner has, in fact, remitted the same on 12.10.2018, pursuant to an interim order of this Court dated 11.10.2018.

3. The challenge is as follows:

(i) Upon amalgamation of an entity by the name M/s. TAFE Reach Limited with the petitioner, credit of entry tax of a sum of Rs.2.27 crores (approx) is said to be available to the petitioner to be transferred to its own books for being set off against output VAT liability. Despite requests, the transfer was not occasioned owing to certain technical problems in the website of the Commercial Taxes Department.

(ii) The amount thus remained inaccessible between the period September 2016 to August 2017 when the petitioner has filed a TRAN 1 Declaration under the provisions of the Goods and Service Tax Act, 2017, seeking transition of the entry tax to its credit ledger. Part credit of a portion of the amount has been availed thereafter.

(iii) While quantifying the interest under Section 42(3), payable on belated remittance of tax for April 2017 since, admittedly, there has been delay in remittance of tax for this month, the petitioner, for its part claims interest on the amount of 2.27 crores (approx) of entry tax available on credit to it, during the period September 2016 to August 2017. This in short is the dispute. The petitioner emphasizes that the non-availment was on account of technical difficulties faced in navigating the online portal and the delay is thus not attributable to any fault on its part.

4. Upon consideration of the matter, the following directions are issued:

(i) Let a computation of interest under Section 42(3) of Act be furnished to the petitioner forthwith.

(ii) The petitioner will either effect payment of the interest if the computation found to be in order or file its objections/response to the computation of interest furnished to it, including the request for interest on the available credit.

(iii) Let necessary orders be passed on the objections within a period of four weeks from date of receipt of the objections and after hearing the petitioner.

5. With these directions this writ petition is disposed. Consequently, connected miscellaneous petition is closed with no order as to costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

The Assistant Commissioner (ST),
Valluvarkottam Assessment Circle
10, PalaniyappaMaligai
Greams Road, Chennai- 600 006

+1cc to Mr.B.Raveendran , Advocate SR.No. 3465
+1 cc to Spl Government Pleader(Taxes) Sr.No.4286

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pm (CO)
A.SK(23/03/2020)