IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2021

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.NOS.11801 & 11805 OF 2020
AND
W.M.P.NOS.14515, 14516 & 14518 OF 2020

(Through Video Conferencing)

Tvl.Grabmore Internet Private Limited,
Represented by its Managing Director,
Mr.G.Sathish Das,
No.294, Purasawalkam High Road,
Kellys, Chennai - 10. ... Petitioner in both W.Ps

.Vs.

The Assistant Commissioner (ST),
Aynavaram Assessment Circle,
F-50, 3rd Floor,
First Avenue, Anna Nagar,
Chennai - 102. ... Respondent in both W.Ps

PRAYER IN W.P.NO.11801 OF 2020:-

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records on the file of the respondent proceedings in TIN/33581003480/2014-2015 dated 13.03.2020 and quash the same being illegal, invalid, without authority of law and violated the principles of natural justice and also law laid down by this Court.

PRAYER IN W.P.NO.11805 OF 2020:-

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records on the file of the respondent proceedings in TIN/33581003480/2013-2014 dated 13.03.2020 and quash the same being illegal, invalid, without authority of law and violated the principles of natural justice and also law laid down by this Court.

For Petitioner : Mr.D.Vijayakumar
(In both W.Ps)

For Respondent : Ms.Amirta Poonkodi Dinakaran
(In both W.Ps) Government Advocate

COMMON ORDER

Heard the learned counsel for the petitioner and the learned Government Advocate for the respondent.

2. The petitioner had belatedly filed the returns and suffered Assessment Orders for the Assessment Year 2014-2015 dated 03.08.2015, and for the Assessment Year 2013-2014 dated 03.06.2015.

3. As far as the Assessment Year 2014-2015 is concerned, the petitioner had preferred an appeal before the Appellate Deputy Commissioner (CT) who by an order dated 11.01.2017 in A.P.No.247 of 2016 remitting the case back to the respondent to pass a speaking order. Pursuant to the same, the respondent has passed the impugned Assessment Order.

4. As far as the Assessment Year 2013-2014 is concerned, the petitioner had preferred an appeal before the Appellate Commissioner in A.P.No.446 of 2015 and same is said to be pending.

5. During the pendency of the aforesaid appeal, the impugned Assessment Order dated 13.03.2020 has been passed by the Assessment Year 2013-2014.

6. Both the impugned Assessment Orders precedes notices issued to the petitioner and the replies filed by the petitioner. It is noticed that in both the impugned Assessment Orders there is no clear discussion as to the basis on which the demand has been confirmed. It is also not clear that as to how the Assessment Order for the Assessment Year 2013-2014 has been passed on 13.03.2020 during the pendency of A.P.No.446 of 2015.

7. Therefore, the impugned Assessment Order dated 13.03.2020 for the Assessment Year 2014-2015 is quashed. The respondent is directed to pass appropriate orders for the Assessment Year 2014-2015 after considering the representation of the petitioner. While passing order, the respondent shall consider the decision of the Hon'ble Supreme Court in ALD Automotive Private Limited Vs Commercial Tax Officer and others, (2019) 13 SCC 225, wherein in Paragraph 43, it has been held as under:-

> “43. Section 19(11) thus allowed an extended period for input credit which if not claimed in any month can be claimed before the end of the financial

year or before the 90 days from the date of purchase whichever is later. The provision of Section 19(11) is thus an additional benefit given to dealer for claiming input credit in extended period. The use of the word "shall make the claim" needs no other interpretation."

8. For the Assessment Year 2014-2015, liberty is thus given to the petitioner to file appropriate representation/reply within a period of thirty days from the date of receipt of a copy of this order. The respondent shall pass appropriate orders in accordance with law within a period of thirty days thereafter.

9. As far as the impugned Assessment Order dated 13.03.2020 for the Assessment Year 2013-2014 is concerned, the impugned demand stands quashed as the aforesaid order has been passed during the pendency of the petitioner's appeal before the Appellate Commissioner in A.P.No.446 of 2015. All further proceedings will be subject to the final outcome of the aforesaid appeal pending before the Appellate Commissioner.

10. These Writ Petitions are disposed of with the above observations. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

arb

To

The Assistant Commissioner (ST),
Aynavaram Assessment Circle,
F-50, 3rd Floor,
First Avenue, Anna Nagar,
Chennai – 102.

+1cc to Mr.D.Vijayakumar, Advocate, S.R.No.65635
+1cc to the Special Government Pleader (Taxes), S.R.No.66342

W.P.NOS.11801 & 11805 OF 2020 AND
W.M.P.NOS.14515, 14516 & 14518 OF 2020

RSI(CO)
PBS/28/12/2021