IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 15.06.2022

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.4234 of 2019 &
WMP.Nos.4764 & 4765 of 2019

M/s.New Bharath Impex,
Rep. by its Proprietor – A.Kannaiyan,
No.90, 'Akilam' Anna Nagar,
Bhavani – 638 301,
Erode District. ... Petitioner

Vs

The Assistant Commissioner (ST) (FAC),
Bhavani Assessment Circle,
Bhavani, Erode District. ... Respondent

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the respondent in his impugned proceedings made in TIN:33182942439/2012-13 dated 26.12.2018 and to quash the same as illegal and contrary to the scheme of the Act and further direct the respondent to consider and pass revised order on the reply filed on 23.04.2017.

For Petitioner : Mr.S.Rajasekar

For Respondent : Mr.V.Prashanth Kiran,
Government Advocate.

O R D E R

On 07.06.2022, the following order was passed:

'Registry is directed to print the name of Mr.V.Prasanth Kiran, learned Government Advocate for the respondent.

2. Learned counsel for the petitioner states that pending writ petition refund orders have been issued determining the refund payable. Let a copy of the refund orders be supplied to Mr.V.Prasanth.

3. According to the petitioner, the refund so determined would cover the tax liability under the impugned assessment orders and the petitioner agrees that refund may be appropriated towards tax. Let this aspect of the matter also be verified by Mr.Prasanth.

4. Now only the penalty remains. The petitioner prays that he may be permitted to approach the appellate authority seeking refund as against penalty imposed. Mr.Prasanth has no objection to this request.

5. List this matter on 15.06.2022. Let memos be filed by both parties to the aforesaid effect.'

2. Today, learned counsel for the petitioner circulates a certificate dated 14.06.2022 issued by the Assessing Authority certifying 'nil' arrears for the year 2012-13 under the Tamil Nadu Value Added Tax Act. 2006, as the arrears of tax have been paid by way of adjustment of refunds for previous years and the petitioner has remitted the amount of penalty, both under protest.

3. In light of the aforesaid, the petitioner seeks leave to file an appeal before the appellate authority and in light of there being no objection for the same by the respondent counsel, the request is acceded to.

4. Appeal, if filed within a period of three (3) weeks from today, shall be entertained by the appellate authority without reference to limitation, but subject to compliance of all other statutory requisite requirements. To be noted, the condition of pre-deposit has been satisfied in this case, as the entirety of tax and penalty has been remitted. Let the appeal be taken up and disposed expeditiously by the appellate authority, in any event within a period of eight(8) weeks from date of receipt of appeal.

5. This Writ Petition is disposed in the aforesaid terms. No costs. Connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CCC)

// True Copy //

Sub Assistant Registrar

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To

The Assistant Commissioner (ST) (FAC),
Bhavani Assessment Circle,
Bhavani, Erode District.

+1cc to Mrs.R.Hemalatha, Advocate, SR.35726
+1cc to The Special Govt Pleader(Taxes),SR.36241

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BR(CO)
CB(26/07/2022)