IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: **05.12.2022**

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P.No.6623 of 2020
&
W.M.P.Nos.7849 and 7851 of 2020

M/s.Madras Radiators and Pressings Ltd.,
SF No.62/6A, MRP House
Kavarapettai Sathiyavedu Road
Kuruthanamedu, New Gummudipoondi Post
Gummidipoondi – 601 201 .. Petitioner

Vs.

1. Assistant Commissioner (ST)
Office of the Assistant Commissioner
of Central Tax & Central Excise
Gummidipoondi Division
Chennai – Outer Commissionerate
R-40, A-1, 100 Feet Road
Mogappair, Chennai – 600 037

2. The Superintendent
Office of the Superintendent of Central Tax & Central Excise
Gummidipoondi Range-III
Gummidipoondi Division, Chennai – Outer Commissionerate
R-40, A-1, 100 Feet Road
Mugappair, Chennai – 600 037

3. The Manager
Indian Overseas Bank
177, Sri Sarada Mill Road
Kurichi, Coimbatore – 641 024 ... Respondents

Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus to call for the records of 1st and 2nd respondents comprised in impugned Notice C.No.IV/16/83/2018-GST dated 20.05.2019 issued by the 1st Respondent, impugned notice vide email dated 19/02/2020 issued by the 2nd respondent and consequent impugned garnishee notice GST DRC-13 DIN-20200359XL00000J6777 issued by the 1st Respondent dated 05/03/2020 and to quash the same and consequently direct the 1st Respondent to pass fresh orders after providing opportunity of personal hearing to the petitioner.

(Prayer amended as per order dated 20.03.2020 made in WMP 8297/2020 in W.P.No.6623 of 2020 by ASMJ).

For Petitioner : Mr.T.Shanmugam
For Respondents : Mr.A.P.Srinivas
Senior Standing Counsel
for Customs and GST
For R1 and R2

ORDER

This common order will now dispose of the captioned main writ petition and captioned three 'WMPs' ['Writ Miscellaneous Petitions'] thereat.

2. It is not necessary to be detained by facts by dilating and delving into granular details as Mr.T.Shanmugam, learned counsel for writ

petitioner-assessee and Mr.A.P.Srinivas, learned Senior Standing Counsel for respondents 1 and 2 very fairly submit in unison, in one voice that the captioned matter is directly and squarely covered by orders dated 19.12.2019 in W.A.Nos.2127 and 2151 of 2019. Therefore, in terms of short facts it will suffice to say that the captioned matter pertains to interest on delayed payment vide Section 50(1) of 'Central Goods and Services Act, 2017' (hereinafter 'CGST Act' for brevity).

3. As regards aforementioned orders in W.A.Nos.2127 and 2151 of 2019, there is no disputation that this Court disposed of W.P.No.15624 of 2019 by order dated 13.06.2019, that order was carried in appeal by the Revenue vide aforementioned writ appeals, two Hon'ble Judges constituting the Division Bench took divergent views, the matter was referred to a third Hon'ble Judge and third Hon'ble Judge by order dated 19.12.2019 concurred with the views of one of the Hon'ble judges of the Division Bench who sustained 13.06.2019 order in W.P.No.15624 of 2019.

4. Learned counsel on both sides submit that an order akin to the operative portion in W.P.No.15624 of 2019 will serve the purpose of both sides. This operative portion has been extracted in the aforementioned order of Hon'ble third Judge in paragraph 8 and the same reads as follows:

'8. The Writ Court disposed W.P.No.15624 of 2019 on 13.06.2019 wherein the operative portion at paragraph 16 reads as follows:

16. In the light of narrative thus far, the following order is passed:

a) Writ petitioner undertakes to pay the admitted liability of Rs.229,014,673/- (as admitted in petitioner's aforementioned letter dated 29.03.2019 to the Department within one week from today i.e., on or before 20.06.2019).

b) On payment of aforesaid amount on or before 20.06.2019, the impugned communication dated 23.05.2019 bearing reference C.No.IV/16/30/2019-Tech-III from the second respondent to the third respondent bank will stand set aside.

c) If the aforesaid payment is not made on or before 20.06.2019, this writ petition will stand dismissed and the impugned order will continue to operate without any reference to this Court.

d) On payment of aforesaid amount on or before 20.06.2019 by the writ petitioner, as mentioned supra, impugned communication from the second respondent to third respondent bank inter-alia under Section 79 of CGST Act will stand set aside and the second respondent shall consider all the points raised in writ petitioner's reply dated 29.03.2019, more particularly the *annexed working sheet, pass an order in a manner known to law and communicate the same to the writ petitioner under due acknowledgement within one week therefrom.*

e) If the decision taken by the second respondent is in favour of the writ petitioner, it is the end of the matter. If that not be so, as mentioned supra, writ petitioner shall avail alternate remedy of preferring a statutory appeal to the appellate Authority under Section 107 of CGST Act.

This writ petition is disposed of with the above directions. No costs. Consequently, the connected miscellaneous petitions are closed.'

5. In the case on hand, Revenue has pegged interest at Rs.5,76,212/- and it is Rs.1,45,925/- according to the petitioner-assessee.

6. Before writing the operative portion, it is to be noted that out of Rs.1,45,925/-, substantial amounts have been paid in two tranches and only Rs.1,642/- remains to be paid is learned writ petitioner counsel's say but learned Revenue Counsel says that this needs to be verified qua records.

7. In this view of the matter, the following order is passed:

a) Writ petitioner to pay the admitted liability of Rs.1,45,925/-[Rupees One Lakh Forty Five Thousand Nine Hundred and Twenty Five only] or demonstrate to the satisfaction of Respondents 1 and 2 that substantial part of same has been paid and pay the balance within one week from today i.e., on or before 12.12.2022;

b) On payment or demonstration to the satisfaction of respondents 1 and 2 (as above), the impugned notice and the consequent impugned garnishee notice will stand set aside;

c) If the aforesaid payment or demonstration is not made on or before 12.12.2022, the writ petition will stand dismissed and the impugned order and notice will continue to operate without any reference to this Court;

d) On payment/demonstration in the aforesaid manner on or before 12.12.2022 by the writ petitioner/assessee as mentioned supra, first respondent and/or second respondent shall consider the stand of the writ petitioner and pass an order in a manner known to law and communicate the same to the writ petitioner under due acknowledgement within one week therefrom;

e) If the decision taken by the first respondent and/or second respondent is in favour of the writ petitioner, it is the end of the matter. If that not be so, writ petitioner shall avail alternate remedy of statutory appeal to the Appellate Authority under Section 107 of CGST Act.

Captioned writ petition stands disposed of with the above directives. There shall be no order as to costs. Consequently, WMPs are disposed of as closed. There shall be no order as to costs.

05.12.2022

Index: yes/no
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To
1. Assistant Commissioner (ST)
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