IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.06.2022

CORAM:

THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

W.P.No.13860 of 2022
and W.M.P.No.13129 of 2022

M/s.Power Links,
Rep. by its Proprietor Mr.S.Satheesh Kumar,
previously at:
Old No.5/1-3, New No.2165/1-3, L Block,
12th Main Road, 1st Street, Anna Nagar West,
Chennai – 600 040.
presently at:
No.1172, 36th Street,
I-Block, Anna Nagar,
Chennai – 600 040. ... Petitioner

Vs.

The Assistant Commissioner (ST),
Ambattur Assessment Circle,
Integrated Commercial Taxes and
Registration Building,
Room No.322, IIIrd Floor,
Nandanam, Chennai – 600 035. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, or any other appropriate writ direction or order to call for the records of the respondent in TIN:33061364218/2017-18 dated 12.04.2022 quash the same and further direct the respondent to grant a reasonable opportunity for the production of records to prove that service tax of Rs.1,12,97,053/- was collected and paid to the Central Government on "service income Rs.8,65,77,434/-" and Rs.61,73,227/- relating to sales turnover of Andhra Pradesh Branch which ought not to be assessed by the respondent herein.

For Petitioner : Mr.V.Sundareswaran

For Respondent : Mr.C.Harsha Raj
Additional Government Pleader

O R D E R

The petitioner is basically a service provider and engaged in activities such as erection, Tower Maintenance or repair, Installation and Commissioning work for telecommunication entities such as Indus Tower Ltd., Telesonic Network (Airtel), American Tower Corporation, Samsung India Pvt. Ltd., Bharat Sanchar Nigam Limited (BSNL), Vodafone, Reliance, Nokia, Emerson, Huawei, Aircel. The petitioner is registered under the Finance Act, 1994 (i.e.,) service tax with registration on AYKPS3359LST001 with Division IV, Anna Nagar Circle. The service tax returns were filed with the service tax Commissionerate as follows:

Period of ST-3 returns	Date of filing ST-3 returns	Authority before whom ST-3 returns were filed
01/04/2017 - 30/06/2017	24/11/2017	Chennai North - New Commissionerate

2. The learned counsel for the petitioner states that while the matters were so resting, the respondent issued two notices dated 03/02/2022 by registered post which were received by the petitioner on 23/02/2022 as follows:

(i) Notice dated 03/02/2022 for the year 2016-17 proposing penalty for not filing TNVAT Audit Form WW and fixing personal hearing on 25/02/2022.

(ii) Notice dated 03/02/2022 for year 2017-18 proposing to levy tax on service income and other issues directing the petitioner to appear for personal hearing on 25/02/2022.

Upon receipt of the notices for 2016-17 and 2017-18 referred to above on 23/02/2022, Mr.M.Madan Raj, Accounts Assistant of the Chartered Accountant Office of M/s.Kandan & Nambi filed copies of TNVAT Audit report in Form WW by appearing on 24/02/2022 for 2016-17 and 2017-18 and also filed Form T available at that time for the year 2017-18. Further, Mr.Madan Raj, Accounts Assistant, requested time for producing records to prove the service income was subjected to service tax. However, the respondent did not give any acknowledgment.

3. In the impugned order dated 12/04/2022, the respondent had not taken into account the Form T filed by Accounts Assistant Mr.M.Madan Raj on 24/02/2022 and had also not mentioned about the request and grant for extension of time. It

is thus submitted that the above aspect will have material bearing as per liability under Sales Tax.

4. It was thus prayed by Mr.V.Sundareswaran, learned counsel for the petitioner that, if one more opportunity is provided, he shall furnish all the above documents.

5. Mr.C.Harsha Raj, learned Additional Government Pleader appearing for the respondent, in the circumstances, would submit that the petitioner may be directed to produce the documents on a particular date to be fixed by this Court.

6. Taking into account the submissions of both the learned counsel for the petitioner and the respondent, the matter is remitted back to the Assessing Officer for the petitioner to produce the documents within a period of 3 weeks from the date of receipt of copy of this order. Thereafter, the respondent shall pass order in accordance with law after affording a reasonable opportunity including personal hearing to the petitioner.

7.Accordingly, this Writ Petition is disposed of. There shall be no order as to costs.

Sd/-
Deputy Registrar(CS)

//True copy//

Sub Assistant Registrar

dhk/pam/mka

To:

The Assistant Commissioner (ST),
Ambattur Assessment Circle,
Integrated Commercial Taxes and
Registration Building,
Room No.322, IIIrd Floor,
Nandanam, Chennai - 600 035.

+1cc to Mr.V.Sundareswaran, Advocate SR.No.32065

+1cc to Special Government Pleader (Taxes)SR.No.32252

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GP(CO)
GMY(23/06/2022)